In the name of Allah
the most
Compassionate and Merciful

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IN THE NAME OF ALLAH THE COMPASSIONATE, THE MERCIFUL.

"They passed a bill in The Assembly.... which gives immunity to all American Military Advisors, their Dependents, their Technical Staff, their Administrative Personnel, and any other affilates, against penalties,... The sold us out. They sold out our Independence, yet celebrated, and had a happy time. They treaded over our honor, Iran's grandure was destroyed, The Iranian Army was demoralized".

Imam Khomeini(May ALLAH bless his soul).

The history of American Military Adrisors' presence in Iran and the issue of Capitulation as well as its revival were reviewed in the first and the second volumes containing series of spy den's documents titled "The U.S.Military Advisory Mission in Iran". Because of the important yet unfortunate, developments and aftermaths of that case, the third volume is allocated to depict events that followed the passage of the disdainful Capitulation Bill. This book includes about 80 documents that date from 1964 – 1979 arranged in three chapters. A glance at certain important points and developments will provide the readership with a better view and outlook.

THE REVIVAL OF CAPITULATION AND ITS AFTERMATHS

The final approval of the Bill in October 1964, had placed the Iranian government under intense pressure. The Islamic Morement led by Imam Khomeini arrived at a new juncture of its struggle against the puppet Pahlavi regime. The U.S.Government, in contrast, refrained from pulling the Shah out ot that critical stage, and instead, focused its efforts at expading the immunity umbrella of Capitulation to not only cover U.S.Military Advisors, but also other American Military Groups that were present in Iran, but were non – advisors, and also dependents and even their servants. The U.S.Embassy Officials, in the course of their talks with Iran's premier, foreign minister, deputy foreign minister and other officials concerned, exerted utmost pressure to make them materialise America's illegitimate intentions. Such diplomatic pressures were being exerted at a time when the U.S.Officials were fully aware of the fact that Mansour's cabinet was trapped in a critical situation. Then U.S.Embassy Charge D'affairs notes:

«Mansour government's now in awkward position of having to explain to knowledgeable people, including Iranian legal profession, why in Iran

IMAM KHOMEINI'S EXILE

Rising popular struggle against the regime, the unwavering campaigns lannched by the Imam, specially his historic speech on the revival of Capitulation, the Shah was so terrified that he decided to disrupt the link between the people and the Leadership of their movement. Thus, his agents arrested the Imam on 3 november 1964, sending him to Turkey's "Bursa" city in to exile the next day.

THE REWARD OF TREACHERY

In January 1965, Mansour was rewarded for his treachery and a muslim revolutionary named "Mohammad Bokharai" shot him to death.

Three months later, the Shah was also attacked by an imperial palace guard, but two of his guards intercepted the soldier and martyred him. The Iranian Nation, thus, proved that while not igiyoring the traitor regime's elements, it was always prepared to send its Islamic revolutionary sons on missions aimed at penalising those traitors.

THE U.S.MARTIAL COURTS IN IRAN

Five years after the passage of Capitulation Bill, Iranian judiciary entity receive another blow.

In 1969, the U.S.Military Advisory Command in Iran, called for a branch of the U.S.Martial court to be set up in Iran in order to deal with crimes committed by American Military Personnel stationed in this country. to justify the move, the U.S.Embassy Charge D'affair argued:

«The Military is discovering increasing difficulties with regard to maintenance of discipline in Iran. They attribute this to some diminution in the quality of personel being sent here and to increasing strictness in Judge

jurisdiction is surrendered to U.S. courts in all criminal cases where as it is known that status of U.S. communications unit in Pakistan, for instance, clearly involves such surrender only in off–duty cases. Moreover, SOF agreements have language calling for waiver of primary jurisdiction in cases of "particular importance" and, on the face of it, arrangement enacted by Iranian Parliament makes no such provision.»

(Document 27)

«Among charges made against Mansur and Fonoff is that by applying Vienna Convention to U.S. military personnel in Iran they have granted us more than we have received through various status of forces arrangements in other countries, notably in neighboring Turkey and Pakistan, This is of course partially true.»

(Document 27)

It is interesting to note that Mansour, then premier, had taken a double approach to this issue. That is, when faced with American Officials' Objections, he promised to satisfy their illegitimate needs;but when he attended the parliamentary sessions, he tried to ristrict the extent or coverage of the Bill to the minimum level possible, for fear of losing further credibility. In this regard the U.S.Charge D'affair notes:

«Unfortunately, however, Prime Minister's speech contained not only helpful statements but also number of garling inaccuracies which look good to the public but apparently involved serious misrepresentation of the bill's coverage. In particular, he was reported to have said three thing which are wrong:(1) that, whereas the U.S. had asked dependents to be covered, they are excluded from coverage by the wording of the law, (2) that only on–duty offenses are covered by immunity, apparently without distiction between civil and criminal offenses, and (3) that, although the U.S. had asked all members

advisory missions to be covered, the law actually covers only those who fulfill technical advisory functions.»

(Document 29)

But the Pahlavi regime's premier was so treacherous that he decided to change the context of the speech he had already delivered before the senate, to materialise the United States' illegitimate goals.

«Mr. Mansour asked(Dr.Yeganeh) in Persian about the possibility of altering the text of the record of his remarks in the Senate concerning the members of the family.»

(Document 28)

«He(the Premier) backed down all along the way.....He subsequently phoned to say he was arranging to have official record of his remarks amended to make clear he was referring to non–American members of household.»

(Document 29)

American Master's expectations were so high that the premier's dual behavior had brought about their discontent.«Stewart Rockwell», then U.S.Charge D'affairs notes:

«I think it has done no harm at all for the Prime Minister to have heard that we have not been happy with the way this bill has been handled.»

(Document 30)

But the case didnot close even at this stage, and the shah's premier was so subservient to foreigners that kept them open to his secrets, requesting them not to disclose his treacheries before his foreign ministry officials.

«The Prime Minister then said again that he wanted this matter to be kept between us and not taken up with the Foreign Ministry.»

(Document 28)

THE SHAH AND THE CAPITULATION BILL

The Shah who wanted to run a democracy show in Iran, was fully out raged at the extent and quality of opposition to the bill in the National Consultative Assembly.

«He(the Premier) said the Shah had been very angry about the whole thing, and that next Tuesday, Deputies ROMBOD, SARTIP–PUR, and one other Opposition Deputy would speak in favor of the status Bill.»

(Document 30)

«Subsequently the New Iran Party determined that the number of defectors was not 10 about 20. The most resent development in the Majlis is that on November 5, no doubt on instructions from the Shah, the very opposition deputies who had lambasted the Bill, turned around and eulogized it.»

(Document 35)

The Americans who witnessed the Iranian government officials' fear of the aftermaths of the capitulation Bill, as preventing their decisive move in accordance with U.S. objectives, ultimately decided to meet the Shah.

«If the Foreign Ministry balks at providing the necessery language, we must hold the Prime Minister to his word and if necessary go to the Shah.»

(Document 29)

«I am loathe to raise any aspect of immunities with anyone. The Shah would have to decide and in fact he would have to imose our view on his government if we wanted any further formal or even informal written assurance.»

(Document 81)

«The Foreign Minister told our Charge that he had «revealed to the Shah all that had transpired so far» with respect to the Vienna Convention (i.e., presumably, also our legal arguments) and the Shah had instructed him to «send us the Note we wanted.» We shall see.»

(Document 37)

Advocate procedures for protection of defendants.»

(Document 77)

Interestingly, the Commander himself admits that U.S.Military Advisors in Iran do not have high degree of competence, yet they are imposed on the country as military experts or specialists, placing the huge financial burden on the muslim people of Iran. The counselor of the U.S.Embassy for political affairs, Martin F.Herz, notes the following in this connection:

«This is the first time that we have noted, as an argument against the presence of U.S.Military Advisers in Iran, the contention that they involve a heavy burden on the Iranian budget. Most people here think that the services of all our advisory personnel are furnished as aid.»

(Document 47)

Those Military Courts set up in Iran, were both in violation of the nation independence and judicial sovereiginty as well as the Soviet – Iranian Treaty of 1921 and the Americans were fully aware of this issue. John Armitage of the U.S.Embassy puts the idea in the following words:

«In the course of our talks with the Iranians, we assured them that we had not in the past and did not in the future intend to convene a military court in Iran. We have not done so in the past because by military regulations this would tend to classify our military establishment here as a base – a connection which we assiduously avoid because of the Soviet – Iranian Treaty of 1921. That Treaty has been interpreted to commit Iran not to permit a foreign military base in the country.»

(Document 68)

In spite of this, the Americans called for Military Courts to be set up in Iran, 4 years later(1969). The Iranian Foreign Ministry in turn responds:

«The Ministry had no objection to in–country Courts Martial so long as they do not come to the official attention of the Government of Iran.»

(Document 84)

THE ISLAMIC REVOLUTION AND THE ABOLITION OF CAPITULATION

Three months after the victory of the Islamic revolution, the Provisional Government abolished Capitulation, But in their approach to the U.S.

Embassy Officials, its members pretended that they had to do so.

«...Foreign Minister, Yazdi,explained to American Embassy Charge, Naas, that cancellation of immunities for ARMISH – MAAG personnel should not be interpreted as an anti–American step or a change in government of Iran's desire to normalize relations. He further explained that the passage of the 1964 «Capitulation» had been met with demonstrations in Iran and had led to the Exile to the Turkey of Ayatollah Khomeini.»

(Document 95)

Despite the Provisional Government Officials' conservative attitude, Imam Khomeini's leadership and the massive popular presence forced them to declare the Bill's abolition, thus, reviving Iran's independence and Judicial sovereignty, after 15 years, leading to the materialization of yet another grand desire of Iran's muslim nation, and one of the innumerable achievements of the Islamic Revolution.

Hoping the present documents would expose other dimensions of the United States' illegitimate interventions that were in violation of our beloved country's judical independence and sovereignty, we conclude this introduction with yet another part of a speech given by the late Imam in 1964:

«....If this country is under U.S. Domination, why are you mading so much noise about independence and progress? If this Advisors are subservients, why are they being treated like Masters or Superiors? Why is it that they are treated as if they are even superior to the Shah? If they are subjects treat them accordingly, and if they are your employees treat them the way other nations treat their employees. If our country is under U.S.Occupation, make it clear and say it out right? .....".

Muslim Students Following

The Line of The Imam.

WINTER 1991

In the name of God.

The Message of Imam Khomeine (R.A.) to the people of Iran, Regarding the Ratification of the Humiliating Canon of Capitulation.

In the Name of God,
the Compassionate, the Merciful.

"God will never provide unbelievers with means of prevailing over believers."

Are the people of Iran aware of what has taken place within the Majlis during the past days? Do they know what crimes have been committed in stealth without their knowledge? Do they know that the Majlis, ordered by the government has signed a document enforcing the captivity of the Iranian nation; acknowledging that Iran is an enslaved colony?

They (Majlis deputies) have submitted to the United States of America a document alleging that this Muslim state as being a savage one, and all our Islamic and national prides have been obliterated, all the rhetorics the statesmen have resorted to for several years have been demolished as well. They have turned Iran into the most backward country of the world, and have insulted our dignified armed forces and their commissioned and non-commissioned officers. The Iranian judicial courts has been discredited and they have voted for the former governments most abominable bill on the proposal of the existing government, after a few hours of secret debates without acknowledging the general public, therefore making the Iranian nation a hostage to America.

The U.S. military and civil advisors, together with their family members, are free to commit all sorts of crimes and treasons while the police in Iran have no right to arrest them, nor have the Iranian courts any right to examine their cases. why? Because the United States is the major supplier of dollars and the government in Tehran needs dollars.

As a result of this shameful vote, if an American advisor or his

servant makes an insult, or commits unlawful acts whatsoever, against a grand religious authority in Iran; a respected person of Iranian nationality or a senior officer, the police are not allowed to arrest him and the courts have no right to examine his case. If, however, a dog belonging to an American is harmed (by an Iranian), the police have to intervene and the courts have to make investigations.

Today, when the governments under colonialist rules have courageously begun, one after another, to break apart these colonialistic chains and set themselves free from foreign dominations, the progressive Majlis in Iran, with all its claims to two thousand and five hundred years of history and its boastful rhetorics, to the effect that Iran is one of the most advanced countries of the world, has voted for this most shameful, humiliating and unacceptable proposal imposed by a disreputed foreign government; thus introducing to the world the noble people of Iran as the lowest and most undeveloped nation on earth. In a most dignified manner, the government defends this unacceptable bill and the Majlis ratifies it.

I was told by some informed sources that this shameful proposal had previously been introduced to Pakistan, Indonesia, Turkey and West Germany, but none of these countries agreed to reduce itself to such a low state by accepting it. It was only the Iranian government which trifled so much with our national prestige and Islamic entity, bringing them to destruction.

When theologists and clerics say that the rule of the iron fist should not intervene in the destiny of our country, the members of the parliament should be elected by popular vote, governments should be constitutional, repression and censorship should be removed from the press and the government organizations should not control the press and cheat the Muslim people of freedom, it is because they want to prevent these shameful acts from being imposed on this nation and not to let us face these disasters.

Why has the Majlis members, who are reputed according to the principles of humanitarianism and nationalism; who are opposed to this document of captivity, have instead, remained silent, except for a few of them, who have spoken out against it with fear and anxiety? They are the puppets' agents and lack the power to diagree. If they protest against it,

they would immediately lose their jobs and be sent to prison.

Do the Iranian people know that the army officers, instead of swearing by the Holy Qur'an, swear by "the heavenly Book in which I believe"?

This is the same danger against which I have repeatedly warned. This fact imperils the Holy Qur'an, the esteemed Islam, our Muslim country, and our country's independence. I wonder what evil the tyrannical regime has perceived in the Holy Qur'an and what harm has come from adhering to Islam and the Qur'an to the regime, so that it persists to continue to do without the name of the Qur'an. If you resort to the Qur'an and Islam, the foreigners will not allow themselves to impose captivity on you and destroy your national and Islamic prides. It is the separation between the people and the ruling elites and the lack of popular support for the rulers which have caused these disasters.

I am now announcing that this shameful decision by the two houses of the Parliament is in contradiction with Islam and the Qur'an and therefore is illegal and against the islamic nation. The members of the Parliament do not represent the people; they represent the rule of force. Their votes are worthless to the people, to Islam and to the Qur'an. If foreigners try to misuse this diabolical law, the nation will be forced to make its final decision.

Let the world know that all troubles of the Iranian and the Muslim people of the world stem from foreign powers from the United States.

The Islamic nations hate foreigners in general and the U.S. in particular. What has brought misfortune to the Muslim governments is the foreign interventions in their destinies. It is the foreign powers who have been plundering our valuable natural resources; it is Britain which has continuously extracted our "black gold" for the least amount of payment; it is the foreigners who occupied our cherished country by attacking it violently from three directions and by killing our soldiers. Once, Islamic countries were in the hands of Britain and its agents; now they are in the hands of the U.S. It is the U.S. which supports Israel and its sympathizers; it is the U.S. which provides Israel with powerful weapons, enabling it to drive Muslim Arabs out of their homes; it is the U.S. which, directly or by proxy, imposes parliamentary members on the Iranian people; it is the

U.S. which considers Islam and the Holy Qur'an harmful to its interests and is therefore determined to force them out of its way; it is the U.S. which considers the Islamic clergy a thorn in the eyes of colonialism and feels itself compelled to dispose of them by imprisonment, torture and insult; it is the U.S. which puts the Iranian Parliament and the Iranian government under pressure to ratify and enforce such a degrading bill which puts on end to all our Islamic and national pride. Finally, it is the U.S.A. which commits atrocities, and worst of atrocities against the Muslim nation.

It is incumbent upon the Iranian people to break these chains; upon the Iranian armed forces to prevent such impudent actions in Iran and to encourage their superiors by every means to tear to pieces this colonialist document, to overthrow this government and expell those Parliament members who voted for this infamous bill. The masses should encourage their clerics not to stay silent; eminent clerics should urge the grand Islamic religious authorities not to ignore this problem; The scholars and theologians at seminaries should encourage renowned and distinguished clergy to break their silence; theology students should urge their teachers not to ignore this case; the Muslim nation to compel preachers and oratores to give information to those who are unaware of this great calamity. Preachers and orators should be encouraged to protest fearlessly and unhesitatingly against this despicable fact, thus awakening the masses; university professors should be encouraged to inform the youth of what has been happening behind the scenes. University students should be encouraged to oppose ardently this outrageous plan and should convey the universities' protest to the nations throughout the would with calmness and by using impressive slogans. Iranian students abroad should not keep silent in the face of this sensitive case, which has endangered the prestige of our faith and nation. The leaders of Islamic states should be urged to help us send our call to the world and let the world hear the soul-burning grievance of these distressed people; Islamic nations' theologians and orators should be encouraged to remove this shame from the faces of their Iranian Muslim brothers by joining them and making protests unanimously. All ranks and classes in Iran should put aside their minor disputes, and struggle for the sacred goals of independence and of

throwing away this yoke of bondage. The noble-minded statesmen should make us aware of recent secret parliamentary debates; and finally the political parties should act in harmony with one another on this issue of common interest.

The senior religious authorities and other clergy, wherever they maybe have the same common goal of giving support to the holy religion of Islam, the Sacred Qur'an and the Muslim people. There is no difference of opinion regarding this sacred goal among the eminent clerics and the guardians of Islam. If, supposedly, there appears a scholarly and theoretical dispute on a minor issue, as they often occur in secondary matters, that will not impede unanimity on fundamental truths. If the government departments have wishfully thought that they will be able to divert us from our sacred goal and attain their own spiteful aims through ignorant fanatics, they have made a grave mistake.

As a servant of theologians and of the followers of Islam, and in the interest of great Islamic mandatories, I am always ready, in critical times to show courtesy towards the humblest persons, let alone towards senior religious scholars and grand religious authorities, whose numbers God willing, will increase. It is most important for the prejudiced young people and novices at seminars to be cautious of what they express in their speeches and writings, and avoid in their progress towards Islam and the sacred goal of the Qur'an; deeds and words which cause disunity and disagreements. To end chaos and disorder, the dignified clergy will always think about reforming social affair , only if governments provide us with an opportunity. To think, and only if the difficulties imposed by the ruling class and mental distractions are removed so we find free-time to carry out domestic reforms. It is these difficulties and preoccupations which stop us in our endeavours to make comprehensive reforms. A presentiment portending an imminent threat against Islam, the Glorious Qur'an, our nation and our national entity, has left us with no opportunity to contemplate other problems. These distractions are of such tremendous dimensions that they have overshadowed our specific religious profession.

Does the Muslim nation not know that a number of clerics, preachers, religious students and many other innocent Muslims are

currently serving time in prisons illegally having been there a long time without trial and that there is no authority to put an end to these medieval treatments? All this has happened after the 5th khordad's (12th Moharram's) Massacre, its scar being imprinted on the hearts of our people permanently. Instead of taking measures to improve Iran's economy, to save honest businessmen from bankrupcy, to supply bread and water for the poor and needy to protect the homeless against cold winters, and to create jobs for young graduates and other helpless people, the ruling elites engage in the aforesaid destructive actions, including such things as employing female teachers for boys high schools and male teachers for girls high schools. The corruptness and vanity of these policies notably the emphasis put on women,s participation in public and official activities are obvious to all.

Today, Iran's economy is being run by the U.S. and Israel, the Iranian bazaar is no longer controled by the Iranians and Muslims, bankrupcy and poverty have overwhelmed merchants and farmers; and the reforms implemented by these (U.S. and Israel) ruling gentlemen have created a black market for the U.S. and Israel, while there is no one to extend a helping hand to this poor nation.

I am in a painful state of mind to think of the coming winter. I foresee starvation, and God forbid, the death of many poor and needy people. It is essential for the nation itself to take care of the poor and it is necessary that needed winter supplies for them should be supplied in advance so that last year's tragedy may not be repeated. It is also essential that the respected clerices of different parts of the country should call on people to attend to this important issue.

I appeal to the supreme God for the glory of Islam and Muslims and for the liberation of Islamic governments from the dominance of foreign powers, to whom may God the Almighty bring heepishness.

"peace be upon the one who follows the right path"

Ruhullah Al Musavi Al Khomeini

The Granting of Capitulatory Rights to the U.S.

Imam Khomeini delivered this speech in front of his residence in Qum. Together with the declaration he issued on the same subject, it was the immediate cause for his forced exile from Iran on November 4, 1964.

I CANNOT EXPRESS THE SORROW I feel in my heart. My heart is constricted. Since the day I heard of the latest developments affecting Iran, I have barely slept; I am profoundly disturbed, and my heart is constricted. With sorrowful heart, I count the days until death shall come and deliver me.

Iran no longer has any festival to celebrate; they have turned our festival into mourning. They have turned it into mourning and lit up the city; they have turned it into mourning and are dancing together with joy. They have sold us, they have sold our independence; but still they light up the city and dance.

If I were in their place, I would forbid all these lights; I would give orders that black flags be raised over the bazaars and houses, that black awnings be hung! Our dignity has been trampled underfoot; the dignity of Iran has been destroyed. The dignity of the Iranian army has been trampled underfoot!

A law has been put before the Majlis according to which we are to accede to the Vienna Convention, and a provision has been added to it that all American military advisers, together with their families, technical and administrative officials, and servantes-in short, anyone in any way connected to them-are to enjoy legal immunity with respect to any crime they may commit in Iran.

If some American's servant, some American's cook, assassinates your *marja*, in the middle of the bazaar, or runs over him, the Iranian police do not have the right to apprehend him! Iranian courts do not have the right to judge him! The dossier must be sent to America, so that our masters there can decide what is to be done!

First, the previous government approved this measure without telling

anyone, and now the present government just recently introduced a bill in the Senate and settled the whole matter in a single session without breathing a word to anyone. A few days ago, the bill was taken to the lower house of the Majlis and there were discussions, with a few deputies voicing their opposition, but the bill was passed anyhow. They passed it without any shame, and the government shamelessly defended this scandalous measure. They have reduced the Iraninan pepole to a level lower than that of an American dog. If someone runs over a dog belonging to an American, he will be prosecuted. Even if the Shah himself were to run over a dog belonging to an American, he would be prosecuted. But if an American cook runs over the Shah, the head of state, no one will have the right to interfere with him.

Why? Because they wanted a loan and America demanded this in return. A few days after this measure was approved, they requested a $200 million loan from America and America agreed to the request. It was stipulated that the sum of $200 million would be paid to the Iranian government over a period of five years, and that $300 million would be paid back to America over a period of ten years. So in return for this loan, America is to receive $100 million-or 800 million tumans-in interest. But in addition to this, Iran has sold itself to obtain these dollars. The government has sold our independence, reduced us to the level of a colony, and made the Muslim nation of Iran appear more backward than savages in the eyes of the world!

What are we to do in the face of this disaster? What are our religious scholars to do? To what country should they present their appeal?

Other pepole imagine that it is the Iranian nation that has abased itself in this way. They do not know that it is the Iranian government, the Iranian Majlis-the Majlis that has nothing to do with the pepole. What can a Majlis that is elected at bayonetpoint have to do with the people? The Iranian nation did not elect these deputies. Many of the high-ranking *'ulama* and *maraji'* ordered a boycott of the elections, and the people obeyed them and did not vote. But then came the power of the bayonet, and these deputies were seated in the Majlis.

They have seen that the influence of the religious leaders prevents them from doing wathever they want, so now they wish to destroy that

influence!

According to a history textbook printed this year and taught to our schoolchildren now, one containing all kinds of lies and inaccurate statements, "It has now become clear that it is to the benefit of the nation for the influence of the religious leaders to be rooted out."

They have come to understand well that:

If the religious leaders have influence, they will not permit this nation to be the slaves of Britain one day, and America the next.

If the religious leaders have influence, they will not permit Israel to take over the Iranian economy; they will not permit Israeli goods to be sold in Iran–in fact, to be sold duty-free!

If the religious leaders have influence, they will not permit the government to impose arbitrarily such a heavy loan on the Iranian nation.

If the religious leaders have influence, they will not permit the government to impose arbitraily such a heavy loan on the Iranian nation.

If the religiouse leaders have influence, they will not permit such misuse to be made of the public treasury.

If the religious leaders have influence, they will not permit the Majlis to come to a miserable state like this: they will not permit the Majlis to be formed at bayonet-point, with the scandalous results that we see.

If the religious leaders have influence, they will not permit girls and boys to wrestle together, as recently happened in Shiraz.

If the religious leaders have influence, they will not permit people's innocent daughters to be under young men at school; they will not permit women to teach at boys' schools and men to teach at girls' schools, with all the resulting corruption.

If the religious leaders have influence, they will strike this government in the mouth, they will strike this Majlis in the mouth and chase these deputies out of both its houses!

If the religious leaders have influence, they will not permit a handful of individuals to be imposed on the nation as deputies and participate in determining the destiny of the country.

If the religious leaders have influence, they will not permit some agent of America to carry out these scandalous deeds; they will throw him

out of Iran.

So the influence of the religious leaders is harmful to the nation? No, it is harmful to you, harmful to you traitors, not to the nation! You know that as long as the religious leaders have influence, you cannot do everything you want to do, commit all the crimes you want, so you wish to destroy their influence. You thought you could cause dissension among the religious leaders with your intrigues, but you will be dead before your dream can come true. You will never be able to do it. The religious leaders are united.

I esteem all the religious leaders. Once again, I kiss the hand of all the religious leaders. If I kissed the hands of the *maraji'* in the past, today I kiss the hands of the *tullab*. I kiss the hands of the simple grocer.

Gentlemen, I warn you of danger!

Iranian army, I warn you of danger!

Iranian politicians, I warn you of danger!

Iranian merchants, I warn you of danger!

'Ulama of Iran, *maraji'* of Islam, I warn you of danger!

Scholars, students! Centers of religious learning! Najaf, Qum, Mashhad, Tehran, Shiraz! I warn you of danger!

The danger is coming to light now, but there are other things that are being kept hidden from us. In the Majlis they said, "Keep these matters secret!" Evidently they are dreaming up further plans for us. What greater evil are they about to inflict upon us? Tell me, what could be worse than slavery? What could be worse than abasement? What else do they want to do? What are they planning?

What disasters this loan has brought down upon the head of the nation already! This impoverished nation must now pay $100 million in interest to America over the next ten years. And as if that were not enough, we have been sold for the sake of this loan!

What use to you are the American soldiers and military advisers? If this country is occupied by America, then what is all this noise you make about progress? If these advisers are to be your servants, then why do you treat them like something superior to masters? If they are servants, why not treat them as such? If they are your employees, then why not treat them as any other government treats its employees? If our country is now

occupied by the U.S., then tell us outright and throw us out of this country!

What do they intend to do? What dose this government have to say to us? What is this Majlis doing? This illegal, illicit Majlis; this Majlis that the *maraji'* have had boycotted with their *fatvas* and decrees; this Majlis that makes empty noises about independence and revolution, that says: "We have undergone a White Revolution"!

I don't know where this White Revolution is that they are making so much fuss about. God knows that I am aware of (and my awareness causes me pain) the remote villages and provincial towns, not to mention our own backward city of Qum. I am aware of the hunger of our people and the disordered state of our agrarian economy. Why not try to do something for this country, for this population, instead of piling up debts and enslaving yourselves? Of course, taking the dollars means that someone has to become a slave; you take the dollars and use them, and we become slaves! If an American runs over me with his car, no one will have the right to say anything to him!

Those gentlemen who say we must hold our tongues and not utter a sound–do they still say the same thing on this occasion? Are we to keep silent again and not say a word? Are we to keep silent while they are selling us? Are we to keep silent while they sell our independence?

By God, whoever does not cry out in protest is a sinner! By God, whoever does not express his outrage commits a major sin!

Leaders of Islam, come to the aid of Islam!

'Ulama of Najaf, come to the aid of Islam!

'Ulama of Qum, come to the aid of Islam! Islam is destroyed!

Muslim peoples! Leaders of the Muslim peoples! Presidents and kings of the Muslim peoples! Come to our aid! Shah of Iran, save yourself!

Are we to be trampled underfoot by the boots of America simply because we are a weak nation and have no dollars? America is worse than Britain; Britain is worse than America. The Soviet Union is worse than both of them. They are all worse and more unclean than each other! But today it is America that we are concerned with.

Let the American President know that in the eyes of the Iranian people, he is the most repulsive member of the human race today because

of the injustice he has imposed on our Muslim nation. Today the Qur'an has become his enemy, the Iranian nation has become his enemy. Let the American government know that its name has been ruined and disgraced in Iran.

Those wretched deputies in the Majlis begged the government to ask "our friends" the Americans not to make such impositions on us, not to insist that we sell ourselves, not to turn Iran into a colony. But did anyone listen?

There is one article in the Vienna Convention they did not mention at all–Article 32. I don't know what article that is; in fact, the chairman of the Majlis himself doesn't know. The deputies also don't know what that article is; nonetheless, they went ahead and approved and signed the bill. They passed it, even though some people said, "We don't know what is in Article 32." Maybe those who objected did not sign the bill. They are not quite so bad as the others, those who certainly did sign. They are a herd of illiterates.

One after another, our statesmen and leading politicians have been set aside. Our patriotic statesmen are given nothing to do. The army should know that it will also be treated the same way: its leaders will be set aside, one by one. What self-respect will remain for the army when an American errand boy or cook has priority over one of our generals? If I were in the army, I would resign. If I were a deputy in the Majlis, I would resign. I would not agree to be disgraced.

American cooks, mechanics, technical and administrative officials, together with their families, are to enjoy legal immunity, but the *'ulama* of Islam, the preachers and servants of Islam, are to live banished or imprisoned. The partisans of Islam are to live in Bandar 'Abbas or in prison, because they are religious leaders or supporters of the religious leaders.

The government clearly documents its crimes by putting out a history textbook that says, "It is to the benefit of the nation to root out the influence of the religious leaders." This means that it is for the benefit of the nation that the Messenger of God should play no role in its affairs. For the religious leaders of themselves have nothing; whatever they have, they have from the Messenger of God. So the government wants the

Messenger of God to play no role in our affairs, so that Israel can do whatever it likes, and America likewise.

All of our troubles today are caused by America and Israel. Israel itself derives from America; these deputies and ministers that have been imposed upon us derive from America–they are all agents of America, for if they were not, they would rise up in protest.

I am now thoroughly agitated, and my memory is not working so well. I cannot remember precisely when, but in one of the earlier Majlises, where Sayyid Hasan Mudarris was a deputy, the government of Russia gave Iran an ultimatum–I can't remember its exact content–to the effect that "Unless you accept our demand, we will advance on Tehran by way of Qazvin and occupy it!" The government of the day put pressure on the Majlis to accept the Russian demand.

According to an American historian, a religious leader with stick in hand (the late Mudarris) came up to the tribune and said: "Now that we are to be destroyed, why should we sign the warrant for our own destruction?" The Majlis took courage from his act of opposition, rejected the ultimatum, and Russia was unable to do anything!

That is the conduct of a true religious leader; a thin, emaciated man, a mere heap of bones, rejects the ultimatum and demand of a powerful state like Russia. If there were a single religious leader in the Majlis today, he would not permit these things to happen. It is for this reason that they wish to destroy the influence of the religious leaders, in order to attain their aims and desires!

There is so much to be said, there are so many instances of corruption in this country, that I am unable in my state at the moment to present to you even what I know. It is your duty, however, to communicate these matters to your colleagues. The *'ulama* must enlighten the people, and they in turn must raise their voices in protest to the Majlis and the government and say, "Why did you do this? Why have you sold us? We did not elect you to be our representatives, and even if we had done so, you would forfeit your posts now on account of this act of treachery."

This is high treason! O God, they have committed treason against this country. O God, this government has committed treason against the

Qur'an. all the members of both houses who gave their agreement to this affair are traitors. those old men in the Senate are traitors, and all those in the lower house who voted in favor of this affair are traitors. They are not our representatives. The whole would must know that they are not the representatives of Iran. Or, suppose they are; now I dismiss them. They are dismissed from their posts and all the bills they have passed up until now are invalid.

According to the very text of the law, according to Article 2 of the Supplementary Constitutional Law, no law is valid unless the *mujtahids* exercise a supervisory role in the Majlis. From the beginning of the constitutional period down to the present, has any *mujtahid* ever exercised supervision? If there were five *mujtahids* in this Majlis, or even one single religious leader of lesser rank, they would get a punch in the mouth; he would not allow this bill to be enacted, he would make the Majlis collapse.

As for those deputies who apparently opposed this affair, I wish to ask them in protest: If you were genuinely opposed, why did you not pour soil on your heads? Why did you not rise up and seize that wretch by the collar? Does "opposition" mean simply to sit there and say, "We are not in agreement," and then continue your flattery as usual? You must create an uproar, right there in the Majlis. You must not permit there to be such a Majlis. Is it enough to say simply, "I am opposed," when the bill passes nevertheless?

We do not regard as law what they claim to have passed. We do not regard this Majlis as a Majlis. We do not regard this government as a government. They are traitors, guilty of high treason!

O God, remedy the affairs of the Muslims! O God, bestow dignity on this sacred religion of Islam! O God, destroy those individuals who are traitors to this land, who are traitors to Islam, who are traitors to the Qur'an.

And peace be upon you, and also God's mercy.

CHAPTER

I

CONFIDENTIAL

Immediate - Telegram

C O P Y

RR RUQPIN
DE RUCJHK 63 05/2238Z
R 052126Z

Nov 6 12:52 pm '64

FM USSTRICOM USCINCMEAFSA

TO RUQPIN/CARMISH MAAG TEHRAN IRAN

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CONFIDENTIAL STRJA 11951. for SJA. DOD

FOR GENERAL COUNSEL. SUBJECT IS STATUS OF U.S. FORCES IN IRAN

References:

A. Fact Sheet on the Application of the Vienna Convention to U. S. military mission personnel in Iran.

B. IIG Bill No. 2157/2291/18 dated 15 March 1964, authorizing American military advisors in Iran to benefit from immunities and exemptions of the Vienna Convention.

C. Tehran Embtel 495, 2 Nov 64, which discussed need for clarification of Reference B.

D. Tehran Embtel 497, 2 Nov 64, which requested precedents concerning privileges and immunities of U. S. military personnel in other countries.

1. Request your opinion as to whether effect of Reference B is to:

A. Extend Vienna Convention status of technical and administrative staffs to U. S. military advisory missions, or

B. Extend only the immunities and exemptions applicable to such personnel.

2. With regard to the waiver provision of the communications group agreement with Pakistan mentioned in Reference C, your attention is invited to the automatic waiver clause effected by the exchange of notes of 18 July 1959 with respect to Annex B (TIAS 4281).

3. As recognized in Reference D, the status of the communications group in Pakistan is governed by a status of forces agreement, whereas MAAG is a part of the Embassy and its personnel "have the same privileges with corresponding rank of the Embassy of the United States" (TIAS 2976). Hopefully, efforts of Embassy to assimilate miscellaneous military units in Iran under Vienna Convention will prove successful. If, on the other hand, IIG refuses to extend Reference B to non-advisory personnel, it is essential that there be no doubt as to status of MAAG personnel despite their omission from the language of Reference B. In this connection the following rationale may be helpful.

4. By ratifying Vienna Convention, Iranian Government indicated an intention to extend appropriate diplomatic status, privileges and immunities to personnel who are part of the Embassy. This includes MAAG personnel who operate as a part of the Embassy. Accordingly, there was no logical necessity to make any expressed provision for them in Reference B. On the other hand, extension of Vienna Convention status to ARMISH and GENMISH personnel who would otherwise not be considered to be part of Embassy was necessary in view of their status as provided in the present GENMISH and ARMISH agreements.

GP-3

BT

The Ambassador

November 7, 1961

Through: DCM

POL - Martin F. Herz

Vienna Convention Developments -- Political

Events in connection with the Status Bill have overshadowed everything else during your absence. The matter affected the standing of the Government, relations between Government and Parliament, relations between Government and opposition elements (e.g., mullahs), and it may also have affected the Government's stance in foreign affairs, although this latter point is yet uncertain. Certainly the regime is now very sensitive to the charge that it is unduly favorable to us.

The Majlis vote took place October 13 and was 74 to 61. A detailed analysis of the debate and vote was contained in our A-195 which you may wish to review. Subsequently the New Iran Party determined that the number of defectors was not 10 but about 20. The most recent development in the Majlis is that on November 5, no doubt on instructions from the Shah, the very opposition deputies who had lambasted the Bill turned around and eulogized it. When the Prime Minister told Mr. Rockwell that this was going to happen, Mr. Rockwell commented that they had no doubt been convinced by the logic of Mansur's statement to the Senate last Saturday, and "the Prime Minister had the lack of grace (or wit) to acknowledge that this was the case." (See Mr. Rockwell's MemCon of November 4).

On the basis of a considerable amount of evidence, we determined subsequent to our A-195 that the Shah couldn't possibly have authorized any opposition to the Bill in the Majlis. What apparently happened is that Mansur was over-confident and that he dissuaded the Shah from sending explicit instructions to the opposition to desist. Many scapegoats are now being identified -- Arsanjani, Nasser, court intriguers (Behbudi is being mentioned), even Alam. But the central fact is that the opposition appealed to a latent nationalism of great force.

Everyone tells us that the issue is still very much alive. Mansur and Aram are still very worried over public opinion, by which they mean educated and semi-educated public opinion. Large strata of the population no doubt neither know nor care about this business. But the banishment of Khomeini, which we

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think was ill-timed, has given more currency to nationalist propaganda over the Status Bill than anything else.

One particular difficulty that we have had to contend with is that the Embassy could not directly counter the many misconceptions about the Bill that were being spread around. Mansur's speech to the Senate on October 31 contained many errors about the Status Bill, which he privately acknowledged to Mr. Rockwell. But as far as the public is concerned, the speech — by minimizing the coverage of the Bill — only confused matters further. The Government has asked us to keep quiet. All we could do is to hand a fact sheet, prepared in POL, to people who made specific inquiries, but these were very few.

Relations with ARMISH/MAAG have been close and cordial throughout this period, and General Eckhardt has given instruction to his people not to discuss the Status Bill. The Iranian military are apparently not among those who oppose our immunities. On the contrary, they are anxious that our advisors should stay and that they should be able to function effectively. Unfortunately there have been a number of recent accidents, despite repeated exhortations by General Eckhardt to drive especially carefully during this critical period.

The latest development is that the Government, in connection with the expulsion of Khomeini, is trying to blame its troubles on "fifth columnists" and rather explicity on Nasser. But the principal reason for the extent of the present confusion and unhappiness is that the Bill was not publicly debated. We all knew that a storm was brewing, but the Government decided to have the vote first and the explanations afterwards — and then it was so scared and worried and dispirited that it waited over two weeks after the vote before it offered any explanations. This situation gave the opponents, who do not need mass media to spread their views, a field day while the Government just hoped that the issue would die down.

POL:MFHerz:jcp 11/7/64

TELEGRAM Foreign Service of the United States of America

OUTGOING Amembassy Tehran

POL-3
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Charge: CONFIDENTIAL (Classification) Control: 105

Date: Nov. 7, 1964 1430

ACTION: Secstate WASHINGTON PRIORITY 525

INFO: CINCSTRIKE 35

CINCSTRIKE for Polad

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1. Altogether we have approximately 850 military and civilian DOD personnel in advisory and other military activities in Iran, of whom 50 have dual status as both dependents and employees.

2. If Vienna Convention coverage is to apply only to advisory personnel, separate provision for waiver is probably not important. However, if we are to attempt to cover other miscellaneous units here whose advisory status is at best nominal (such as Topographic Team, Tehran Relay, Signal Relay, Gulf Engineers), then it will do us no good to argue that MDA type of agreement does not customarily include waiver provision. Iranians can then reply that if we wish to follow pattern applying only to advisory personnel, then they will be forced to place narrow construction on term advisory personnel.

3. We note that Vienna Convention itself contains waiver provision in Article 32.

4. Are there precedents of MDA type of agreements covering also units, i.e., personnel that fulfill functions other than advisory?

96/rp

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TELEGRAM ● Foreign Service of the United States of America

OUTGOING Ambassy Tehran

Charge: CONFIDENTIAL *Classification* Control: 105

- 2 - Date:

Apparently in Pakistan there are two agreements, one covering MAAG and another covering communications unit. Are there instances of other countries where they are combined? Trust Department appreciates that if we fail to cover miscellaneous units by Vienna Convention under liberal construction of recent Status Bill (for which waiver provisions may be necessary) there is no hope we could obtain separate SOF type of coverage for those units. No govt here in foreseeable future will go to Parliament with yet another status bill.

5. FonOff has asked us for copy of Ethiopian agreement on jurisdiction. Request two copies air pouched soonest.

GP-3

ROCKWELL

POL:MFFenderesky ARMISH/MAAG Maj. Hart (draft)

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The Ambassador November 7, 1964

Through: DCM

POL - Martin F. Herz

Vienna Convention Developments -- Legal

The Bill which came out of the Senate and which was approved by the Majlis is legally defective because it applies, technically, only to military personnel "in the employ of the Imperial Government." The original exchange of notes made clear who is to be covered. Our current legal difficulties stem from the fact that the Government, while it says it is prepared to give us in practice the coverage we specified in Note 299, is reluctant to reaffirm in writing that we have this coverage. The most recent discussion of this subject took place between Mr. Aram and Mr. Rockwell on November 5. The best statement of our position is contained in Mr. Rockwell's MemCon of that date:

> "I said that we could not agree with this opinion concerning the validity of the Exchange of Notes. It represented an agreement between our two governments which had not been specifically rejected by the Majlis and therefore still continued in effect. If the fact that the Law had intervened after the Exchange of Notes was bothersome to the Minister, we would be entirely willing to conclude a new exchange saying the same things, since we appeared to be in agreement that the law gave us what we both had been seeking. Some kind of written confirmation was necessary, in view of the varying interpretations which had publicly been placed upon the law. In the future, when the officials on both sides who have been dealing with this matter were no longer around, there had to be written evidences of what had been agreed upon. That is why we attached so much importance to the Exchange of Notes and could not agree that it was no longer valid. The Foreign Minister said that he still had to convince himself that this was so."

In an earlier conversation, Mirfendereski had probed whether we might be willing to specify, in line with the conventional Status of Forces language, that we would waive immunity in cases of particular importance. Mr. Rockwell asked whether in that case they would confirm to us the precise coverage in our Note 299, and Mirfendereski -- stressing that he had not consulted his

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superiors -- said yes. We tried this idea out on the Department (without reference to the conversation with Mirfendereski), but the initial reaction has been unfavorable because waiver provisions apply to agreements on troop units (SOF) and not to agreements on advisory missions (MDA). It is not clear, however, whether Washington sufficiently appreciates that, if only ARMISH/MAAG and GEDMISH (the truly "advisory" personnel) obtain Vienna Convention coverage, over one-third of our military here would be excluded from coverage.

The situation has been further messed up by the Prime Minister's speech to the Senate on October 31 (a review of Embtel 499 may be helpful here if you did not see it in Washington) in which he was reported to have claimed that dependents are not covered, that the immunity applies only to on-duty offenses (without distinction between criminal and civil jurisdiction), and that only certain members of the advisory missions are covered. Although he subsequently back-tracked when questioned by Mr. Rockwell on these misstatements, his rectifications are not on public record and, as of this writing, not even known to the Foreign Ministry. These are points of interpretation of the Vienna Convention and of the Status Law on which there really can be no dispute, unless there were bad faith on the Iranian side.

One point that the Iranians have been reluctant to accept and which, if they accepted it, would remove the current legal difficulties, has to do with the purpose of their original Note 8296 in which they said they would need to get parliamentary approval to apply the Vienna Convention to personnel "in the employ of the Imperial Government." We understood this to mean that they had no difficulty in applying the Convention to other personnel, but needed to close only this legal gap. This was also the sense of our reply in Note 299, which the Iranians accepted and submitted to their Parliament as an integral part of our agreement. But throughout the parliamentary debates, the Government took the position that the Bill itself was the vehicle for applying the Vienna Convention to our advisory personnel. They have never been willing to acknowledge the principle of international law that determination of who is to receive diplomatic privileges is a matter for the Executive. On the other hand, the Exchange of Notes (while it is not part of the law) was frequently referred to in the debates, and never with any restrictive connotation.

It may be necessary to cut the Gordian Knot in the same way we got out of the legal tangles in connection with Delmar -- by going to the Shah. The people we are dealing with are scared to do anything. A good illustration of this is Mirfendereski who told our Charge that he was the butt of much criticism and that he was afraid the Vienna Convention matter is "jeopardizing his career." One can imagine how reluctant such a man is to stick his neck out by recommending that the Government fully acknowledge, in writing, the full coverage which they had originally intended to give us. It is much safer for such people to try to back-track and delay and argue and obfuscate the issue.

We have been in close touch with ARMISH/MAAG, and all our telegr on the legal aspects have been fully coordinated with them. Cooperati has been excellent.

ADDENDUM: Subsequent to typing this memorandum it was learned that th Foreign Minister told our Charge that he had "revealed to the Shah all that had transpired so far" with respect to the Vienna Convention (i. presumably, also our legal arguments) and the Shah had instructed him to "send us the Note we wanted." We shall see.

POL:MFHaas:jcp 11/7/64

Prime Minister's speech from "Proceedings of Majlis", November 10, 1964

The Prime Minister:

As Mr. Rambod pointed out, I gave the necessary explanations at the Senate because adequate explanations had not been given when the American Military Advisors Bill and the Vienna Convention were debated. I completed ¿ the explanations it at the Senate and brought to their kind notice what was needed. I am pleased that this matter was once more debated at the Majlis on Thursday and I once more say here that the Iranian people, the Iranian government and the Shahanshah of Iran are so exalted that such ideas won't penetrate into the real foundation of this country's policy (Deputies: Correct). The presence of a few foreign experts in different economic and military departments, particularyly those under different agreements, for different reasons and of different types and accompanied by different explanations, all conforming to the interests of the several nations or in regional and international cadres or on a bilateral reciprocal basis seems clear to us and should sweep away any fancy suspicion or such thoughts in this connection. Then, too, I pointed out different countries in Europe, South America, Asia, the Far East, the Middle East and Africa which have given these privileges through different agreements and with different conditions because of their being needed at that time. The thought was made that we should no longer have an inferiority complex in international diplomacy; a nation, a government which is well aware of its economic and political independence and there is no fancy suspicion in this and the mentioning of such matters is beneath the dignity of the Iranian people (Correct.);and such ideas, which aim at poisoning and a war of nerves should really be swept away, and inhibit the

real people of Iran, the ones watching you, the same people we contacted yesterday in Shiraz, Khuzistan, Kohkiloyeh and Boir Ahmadi. They want something else from this people and this government and this leader and this system. They don't think about instigating ideas related to personal interests and political interests which are brought up and are far from the truth. In addition (to) other countries where as I said these diplomatic privileges (were given) in different manners to these missions which are entirely ordinary and usual; even in our Iran in the year 1330 we gave these privileges to the American Economic Cooperation Technical Mission here and it is not a new matter since it had been a mission serving in Iran. At the time we really needed the extensive economic assistance from the US Government; at that time the missions acted in a similar fashion in all other countries; the then government of Iran at the time of Dr. Mosadeq, too, - they (the missions) were given these privileges and diplomatic immunities but more completely; and they were put precedence line of ambassadors, ministers and members of the American Embassy. I won't read the text of the Law to avoid a lengthy talk here;However, in 1330 a legal decree was passed by the Imperial Iranian Government, as between the head of government (at that time) of Iran and the U.S. Government, and also in the year 1340 under the previous government, facilitating and creating economic relations and development and giving these same privileges to the U.S. Economic Cooperation Mission; this was becausethe method of work had changed and Point Four had changed into the Technical Cooperation Mission. A legal decree was passed which included all diplomatic immunities in addition to tax and customs immunities and it was also approved in the Majlis on June 28, 1964; and nothing was said in this connection. Because of the Iranian Government's need for the American Military

Advisory Mission to advise the Iranian Army, that is, because all our means an equipment has been imported from the United States or has been granted and/or purchased, the previous government, the then government, passed a decree. They signed and exchanged an agreement bewtween the Iranian Government and the American Embassy, they exchanged a note relating to the introduction of such a Bill in the Senate, after the approval of which, it was introduced to the Majlis; and it passed the Majlis and was forwarded to the Government today. I think, particualrly as I know how much the honorable members(representatives) of the nation give importance and respect to the defense forces of the country (Correct) how is it possible, with all records which may be seen in other countries, the records of passage completely and exactly three agreements, three letters of agreement, three laws of diplomatic privileges since the year 1330 in Iran, that they wanted to incline the public views of the country in this way; and there were individuals who had no other goal but provocation and sabotage in the country (Correct). Fortunately, the honorable deputies in the Majlis on Thursday announced their single view with unity; and the thoughts which I mentioned outside the Majlis, which, unfortunately might have an impression on the people, were ruined (Fuladvand:If there was such a thought, it was outside the Majlis), and today, forthanking HE,Mr. Sartip-pur, that which I say in the Majlis is not as an objection but as an appreciation. I have repeatedly said it. Of course, it was said again at the Senate that the chief and members of the American Military Advisory Mission in Iran who are performing duty with confirmation of the Government, are enjoying, according to the Vienna Convention, the privileges related to administrative and technical staff as described in Paragraph, Article 37 of the said agreement. After communication the law (after the law was forwarded to

the Government) with which are enclosed two Notes of the Iranian Ministry of Foreign Affairs and the Embassy of the United States at Tehran, which was introduced to the Majlis, and in the legal text, it has been approved considering its contents, it will be precisely implemented by the Government; and it is evident, as mentioned in the Senate, the non-technical employees who are serving with the Military Advisory Mission but are not confirmed by the Government as members of the Mission, neither they nor their families will be included in the approved law because that is precisely the way it is delimited in the Vienna Convention and Vienna Agreement; and neither can the Government take one additional step further or with any more justification or explanation making the least change in the legislation. I therefore took advantage here with appreciation of the Majlis which, in my absense on Thursday and considering that the great intentions of the deputies have always destroyed the unsound thoughts which are said and heard outside of the Majlis; and the discussions of the Majlis on Thursday gave a very good impression; and the people thanked the Majlis which indeed maintains the rights of the Iranian people. This explanation I gave was in appreciation and also and indication of the talks of the Senate and those matters merely related to non-technical employees and their families which had created imaginings and I talked about it at the Majlis saying that non-technical employees and their families who are not on the list of members, and the Chief of the Advisory Mission, will not at all be included among those having those privileges determined by the Vienna Convention and stipulated by the law.

EXTRACTS FROM PRIME MINISTER MANSUR'S SPEECH TO MAJLIS 11/10/64

(Preliminary translation, based on Mohammed Nia, corrected orally by Secretary of State Yeganeh)

"(The previous Government) signed and exchanged Notes between the Iranian Government and the American Embassy, they exchanged a Note resulting in the introduction of such a Bill into the Senate, after whose approval it was introduced to the Majlis; and it passed the Majlis and was forwarded to the Government today...

"Of course, it was said again in the Senate that the Chief and Members of the American Military Advisory Mission in Iran who are performing duties with the confirmation of the Government are enjoying, according to the Vienna Convention, the privileges related to administrative and technical staff as prescribed in Paragraph 2, Article 37 of the said agreement.

"After receiving the law (forwarded by the Parliament) whose bill annexed two Notes of the Foreign Ministry and the Embassy of the United States in Tehran, which was introduced to the Majlis and is in the text of the law, it has been ratified by taking into consideration those Notes, it will be precisely implemented by the Government; and it is evident, as mentioned in the Senate, that non-technical employees who are serving with the Military Advisory Mission but are not confirmed by the Government as members of the Mission, neither they nor their families will be included in the approved law because of the precise way in which it is delimited in the Vienna Convention; and neither can the Government take one additional step further or with any more justification or explanation make any change in the legislation."

(Note: A better translation is now being prepared by Dr. Saleh.)

EXTRACT FROM PRIME MINISTER'S SPEECH TO MAJLIS 11/10/64

In addition (to) other countries where as I said these diplomatic privileges (were given) in different manners to missions which are entirely of an ordinary and usual nature, even in our Iran in the year 1330 we gave these privileges to the American Technical Mission for Economic Cooperation here; and it is not a new matter since it was a mission serving in Iran when we really needed the extensive economic assistance from the U. S. Government; at that time these missions acted in a similar fashion in all other countries; the then Government of Iran at the time of Dr. Mosadeq, too - they (the missions) were given these privileges and diplomatic immunities even to a much fuller extent, and they ranked with Ambassador, Ministers Plenipotentiary and members of the staff of the American Embassy. I shall not read the text of the Law to avoid a lengthy talk; However, in the year 1330 notes were exchanged * between the then head of the Government and the United States Government; and also in the year 1340 under the previous Government, in order to facilitate and create economic relations (and conditions conducive to)* the success of the U. S. Economic Cooperation Mission, a legal decree was passed by the Council of Ministers granting these very diplomatic privileges fully to this Mission. This was because the method of work had changed and Point Four had changed into the Technical Cooperation Mission. A legal decree was passed which included all diplomatic immunities in addition to

*Translator's Note: Words left out in the Official Record of the Proceedings of the Majlis, but inserted after checking with the text printed in the evening paper Ettela'at of November 11, 1964.

tax and customs immunities and it was also approved in the Majlis on June 28, 1964 (7/4/43). It was sent to the Senate and nothing was said in this connection. Because of the Iranian Government's need for the American Military Mission to advise the Iranian Army as experts, that is, because all our means and equipment have been imported from the United States and granted (in aid)* and/or purchased, the then Government passed a decree. They signed and exchanged an agreement between the Iranian Government and the American Embassy; they exchanged a note relating to the introduction of such a Bill in the Senate, which, after the approval by the Senate, was submitted to the Majlis and it was passed by the Majlis and was forwarded to the Government today. I think (in fact) I know particularly how important the defense forces of the country are to the honorable representatives of the nation and how much they respect the defense forces of the country (cheers). With all the precedents in other countries and with the precedents actually existing in Iran where since the year 1330 (A.H.) three agreements, three letters of agreement, three laws of diplomatic privileges have been passed on a much fuller (scale)* and with a much wider (scope)*, how is it possible that they unfortunately wanted to mislead the public opinion to this extent? And there were individuals who had no other goal but provocation and sabotage in the country (cheers). Fortunately, the honorable deputies in the Majlis on Thursday announced their view with unity, and entirely did away with the thoughts which I mentioned outside the Majlis and which, unfortunately, might have had an impression on the minds of the people. ("If there was such a thought," interpolated Deputy Fuladvand, "it was outside the Majlis.")

*Translator's Note: Words in parenthesis inserted for clarity.

And today (continued the Prime Minister, addressing Excellency Sartip-pur) I am making these remarks to express my appreciation in the Majlis. I have repeatedly said, and of course it was stated again in the Senate, that the Chief and members of the American Military Advisory Mission in Iran who are performing (their)* duty with the support of the Government, are, according to the Vienna Convention, enjoying the privileges related to administrative and technical staff as described in Paragraph 2, Article 37 of the said Convention. The law, after being communicated to the Government, will be put into effect exactly (as it is)*. The Bill (on the basis of which this law was enacted)* carried as enclosures two notes from the Iranian Ministry of Foreign Affairs and the United States Embassy in Tehran which were submitted to the Majlis, and it was with (due)* regard to their purport that the legal text (i.e., text of law)* was approved. And as to the non-technical employees who are serving with the Military Advisory Mission but who may not be confirmed by the Government as members of the Mission, as intimated in the Senate obviously neither they nor their families will be covered by the approved law, a fact precisely stated in the Vienna Convention and Vienna Agreement; and neither can the Government take one step further than the law enacted by the Majlis, nor any justification or other explanation could make the least change in the legislation.

*Translator's Note: Parenthetical words inserted in the interest of clarity.

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TELEGRAM

Foreign Service of the United States of America

INCOMING AMEMBASSY TEHRAN

ACTION:
POL-3

CONFIDENTIAL
Classification

Control: 287

Rec'd: Nov 14, 1964
1515

INFO:
AMB
DCM
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USIS
ARMA
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24

FROM: DEPARTMENT

NO: 413, Nov 13, 7PM

ACTION TEHRAN 413 INFO CINCSTRIKE USN

JOINT STATE/DEFENSE MESSAGE

REFTEL 495, DEPTEL 403

Following is proposed text of note to be delivered at time you deem most propitious. If you think it preferable to delay until after signing of bill, you may still wish to inform appropriate Iranian officials of our intentions. Suggest you point out that an explicit statement of our intention to consider waivers would compensate to some extent for the Iranians' inadvertant acceptance of criminal jurisdiction arrangements less favorable to them than in most of our SOFA's in other countries:

"The Embassy of the United States of America presents its compliments to the Imperial Minister of Foreign Affairs and has the honor to refer to the exchange of notes of November/December 1963 concerning the status of members of the United States Military Missions in Iran (the Ministry's note no. 8296 of November 17, 963 and the Embassy's note no. 299 of December 18, 1963).

It has come to the attention of the Embassy that the Imperial Iranian Government's bill dealing with the privileges and immunities of members of the United States Military Missions in Iran has been approved by the National Consultative Assembly and the Senate. Based on the Ministry's note no. 8296, the Embassy understands that it is the intent of this bill to extend the provisions of the Vienna Convention to members of the United States Military Missions in Iran and their households, as defined in the Embassy's note no. 299 and in Article 37 of the Vienna Convention. Pursuant to this understanding, and consonant with the provisions of Article 32 of the Vienna Convention, the Embassy can affirm that the authorities of the United States would give sympathetic consideration to a request from the authorities of the Imperial Iranian Government for waiver of immunity in cases where the authorities of the Imperial Iranian Government consider such waiver to be of particular importance.

The...

FORM FS-501
1-64

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The Embassy proposes that the reply by the Ministry to this note will constitute the agreement by the Imperial Government of Iran to the above understandings as well as a favorable and acceptable response to the Embassy's note no. 423 of March 19, 1962."

After exchange of notes concluded, Foreign should be approached in connection with Paragraph 4 of Embassy note no. 423 of March 19, 1962 on status of certain senior personnel. Embassy should advise GOI in advance of our intentions in this regard and transmit draft note to Washington specifying which personnel are recommended for diplomatic status.

Please transmit by pouch as soon as possible certified copies of all existing notes, subsequent to no. 423 dealing with status matters, as well as currently proposed exchange when concluded.

GP-3

RUSK

wfu/1339

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TELEGRAM — Foreign Service of the United States of America

OUTGOING AMEMBASSY TEHRAN

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Charge: State — CONFIDENTIAL Classification — Control: 216 — Date: Nov. 14, 19 1715

ACTION: Secstate WASHINGTON 552

INFO : CINCSTRIKE 36

CINCSTRIKE for POLAD

Vienna Convention, Status Bill

Embtel 499

While pursuing the matter of getting PriMin to rectify record of his October 31 speech, as he had promised, an interesting new fact emerged. In discussion with Yeganeh, Minister of State for Parliamentary Affairs, we were told that there can be no doubt about continued validity of our original Exchange of Notes because those documents are referred to in the Status Bill. Yeganeh insisted that reference numbers in first line of bill (Enclosure 1 of our A-195) do not relate to Vienna Convention as we had been told by Senate and as FonOff believes, but relate to the notes appended to the original govt bill submitted to Senate. Yeganeh offered to have this confirmed to us in writing.

He did better than that. He wrote out passage for PriMin's next speech, which was delivered to Majlis November 10. In that speech Mansur referred to fact that Status Law refers to govt's original submission including the Exchange of Notes and "was approved with due regard to their purport" (i.e., to purport of the notes). This statement will be

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TELEGRAM — Foreign Service of the United States of America

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exceedingly useful to us in our further contacts with FonOff which is still fretting over difference between ARMISH and MAAG and continues reluctant to confirm in writing the precise coverage because it is still receiving criticisms over alleged sweeping character of immunities.

With respect to coverage of families, PriMin also made useful if somewhat obscure clarification. He castigated critics of Status Bill and said he was correcting misstatement made by his enemies. He then went on to state specifically that "Chief and Members of the American Military Advisory Mission (sic) in Iran who are performing duties with confirmation of the Government, are enjoying, according to the Vienna Convention, the privileges prescribed in paragraph 2, Article 37 of that agreement." While few of his listeners could have known that paragraph 2, Article 37 specifically includes families, we cannot cavil at this rectification. Obviously, PriMin did not wish it to be known that his earlier speech had contained a glaring mistake.

Meanwhile press has given little notice to these clarifications, and one paper (Tehran Journal) even gave further currency to earlier erroneous statement by claiming that latest Mansur speech had confirmed that families and "administrative personnel" of our mission are not covered. Thus, although the parliamentary record is now greatly improved, as far as public is concerned the notions about limited coverage, which Mansur had created

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TELEGRAM

Foreign Service of the United States of America

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in his October 31 speech, still continue. Even so, public climate surrounding the status bill does not seem to have much improved. We continue to receive evidence of widespread belief that govt and parliament have accepted "capitulations." It is still very important in view of this situation that we be able to offer waiver provisions in interest of clearing matter up once and for all.

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HOLMES

POL:HFHaas/mjs
November 14, 1964

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TELEGRAM

Foreign Service of the United States of America

INCOMING AMERICAN EMBASSY TEHRAN

ACTION
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AFMA
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ARMISH-3
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ADMIN
CRU-2
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AID-3

25/rr

CONFIDENTIAL / Classification Control: 325

Recd: Nov 17, 1964 1454

FROM: DEPARTMENT

NO: 419, November 16, 5 PM

ACTION TEHRAN 419 INFO CINCSTRIKE UNN

CINCSTRIKE for POLAD

EMBTEL 552

In view Yeganeh's interpretation cited REFTEL would be helpful to have official text government bill number 2157/2291/18 dated 25/11/1342 and its enclosures. Is Persian for phrase "in the employ of the Imperial Government" as used in final bill subject to any more favorable alternate translation? Phrase in Prime Minister's November 10 Majlis speech "who are performing duties with confirmation of the government" is much more helpful and we wonder how the Persian originals of these two formulations compare.

Agree important for US to offer waiver provision but consider equally important to get documentary clarification on coverage, in view unfortunate wording of bill and continuing public misconceptions cited REFTEL. Thus we favor exchange of notes as proposed Joint State/Defense message DEPTEL 413 which should have arrived before drafting of REFTEL. Please advise if not received.

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RUSK

FORM FS-501
2-21-58

1455

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OUTGOING AIRGRAM

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POL-3

NO: A- 250

TO: DEPARTMENT OF STATE

INFO : BAGHDAD, CAIRO, HONG KONG, KUWAIT, LONDON, MOSCOW

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POUCH:
ISFAHAN
KHORRAM
TABRIZ
MESHED
BAGHDAD
CAIRO
HONG KONG
KUWAIT
LONDON
MOSCOW

ARMA
AIRA
ALUSNA
ARMISH-3
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ADMIN
CR
33/rp

FROM: Embassy TEHRAN DATE: Nov. 17, 1964

SUBJ: Absence of Communist Comment on the Status Bill

REF: Embassy airgrams A-195, Oct. 27 and A-233, Nov. 10

In view of the furor created here by the recent passage of the Status Bill (according immunities under the Vienna Convention to U.S. military personnel) along with charges of "capitulations" and other nationalistic slogans and anti-American themes, it seems noteworthy that we have received no evidence of any communist comment on this matter from either overt or covert propaganda sources.

As far as we are aware, neither Radio Moscow in its Iranian-language program nor the clandestine stations "National Voice of Iran" and "Peyke Iran" have seized the present opportunity to profit from what the communists might well consider a major propaganda opportunity.

Although a high source in the Foreign Ministry claimed to us at one time that Radio Peking had jumped into the fray with propaganda fanning the current suspicions about "capitulations", a check with FBIS London does not disclose any propaganda from that quarter dealing either with the Status Bill or with other "anti-Iranian" themes. What foreign propaganda on this subject exists appears to have emanated exclusively from Arab sources. The communists seem to have passed this one by.

For the Ambassador:

Martin F. Herz
Counselor of Embassy
for Political Affairs

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not automatically declassified.

POL:MFHerz/mja Nov. 16, 1964

CAS (in draft)

TELEGRAM Foreign Service of the United States of America

OUTGOING AMEMBASSY TEHRAN

Charge: State

CONFIDENTIAL
Classification

Control: 266

Date: Nov 18, 1964
1540

ACTION: Secstate WASHINGTON ~~566~~

POL-3 INFO : CINCSTRIKE 37

AMB
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Deptel 419.

We are hopeful of early GOI acceptance of new exchange of notes along lines Deptel 413 (which was distributed in Embassy only after dispatch of Embtel 552.) PriMin told me yesterday that he had reviewed proposed note, which I had given Foreign Minister in draft, and that he expected exchange to be consummated in near future. Our draft included minor modifications of text transmitted in Deptel 413. Complete exchange as well as text of govt bill 215/2291 will be pouched soonest.

GP-3

HOLMES

POL:MFHerz/mja
November 18, 1964

ARMISH/MAAG - Major Hart (in draft)

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A-257 CONFIDENTIAL

TO: DEPARTMENT OF STATE

POL-3
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FROM: Amembassy TEHRAN November 19, 1964

SUBJ: Clarification of Prime Minister's Remarks on the Status Bill

REF: Embassy telegrams 499, 511, and 552, November, 1964

24/mj

Summary: This airgram deals with the clarifications of the public record concerning the precise purport of the Status Bill. Such clarifications were made necessary by the Prime Minister's speech to the Senate on October 31 which included several serious misstatements. (Another airgram will deal with the legal and diplomatic clarifications which have to do, not with misstatements about the Status Bill but with the defective character of the bill and with certain ambiguous areas which date back to the original Exchange of Notes.) We are able to confirm, on the basis of the Prime Minister's subsequent speech of November 10, that, as far as persons knowledgeable with the Status Bill are concerned, the misstatements have been substantially corrected -- although the public is probably still as confused about the Status Bill as ever. The most important positive result of the Prime Minister's rectifications, which emerged as a result of our discussions, was that he confirmed the validity of our original Exchange of Notes which is more precise than the bill recently passed by the Iranian Parliament.

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Confronted with an aroused public opinion, which credited rumors that sweeping and excessive privileges had been granted to American military personnel by the Status Bill, Prime Minister Hasan Ali LANSUR in his speech to the Senate on October 31 tried to minimize what had been granted -- and, in the process, made some very unfortunate remarks. Mr. Mansur likes to speak extemporaneously, and it is possible that he was honestly confused about the bill which he had defended in the Majlis

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POL:MJHart:mja Nov. 18, 1964 The Ambassador

ARMISH/MAAG: Maj. Hart

debate on October 13. It is also possible, however, that he was induced to make the remarks in the Senate by someone who wished to misrepresent the record in order to minimize the immunities granted to U.S. military personnel. In any case, he said according to the published record of the Senate proceedings:

> "... In reply, the American Embassy sent a Note, No. 299 dated December 18, 1963, expressing the opinion that the sentence, 'members of the U.S. military missions in Iran' should be construed to apply to all military personnel, the civilian employees of the Department of Defense and their families. But the Senate, with Government approval, limited this merely to the Chief and Members of the mission, excluding the members of their families and non-technical personnel. Thus, the immunity granted is much less than in many other countries; it is not only given under an international convention, but excludes civil immunity and immunity outside the bounds of their duty."

Although the Prime Minister promised our Charge d'affaires that he would amend the legislative record, he was apparently advised by Dr. Naser YEGANEH, Minister of State and Parliamentary Undersecretary, that it would be better to make a correct statement of the facts in a subsequent speech without admitting that his earlier speech had contained inaccuracies. As reported in Embassy telegram 499, the Prime Minister needed to be convinced by reference to Paragraph 2, Article 37 of the Vienna Convention that families are an integral part of the category "technical and administrative personnel." He argued, rather lamely, that the word "families" might be construed to mean "members of households" (other than family members) but later said that the simple omission of the word "and" could take care of the rectification. (This is explained further below). With respect to "non-technical personnel" he had meant, he said, that employees of the missions, such as (Iranian) cooks and drivers, would not be entitled to immunities; and with respect to criminal immunity, he claimed that he understood perfectly well and had meant to say that only off-duty civil offenses were excluded.

It may be noted that if the little word "and" had been removed in the clause "members of their families and non-technical personnel," the result would have been, in the Persian language, to make the clause read "members of the families of non-technical personnel" -- and, since the Prime Minister could claim that by definition all American members of the advisory missions are "technical", all their families would enjoy the immunities. Similarly,

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if the word "and" was removed in the last clause, a rather meaningless sentence would result which would say that, as is indeed the case, the Status Bill "excludes civil immunity outside the bounds of duty."

This explains the cryptic paragraph following the Prime Minister's rectifications in the Majlis on November 10, in which he said:

> "I stated in the Senate that the non-technical employees and their families who are not on the list of the Chief and Members of the Mission will not be covered by the Vienna Convention privileges or those specified in the Law. Therefore, if there has been a mistake arising from the shorthand notes or transcription, or if there is an extra 'and' and so forth, this mistake can either be rectified or explained."

The most important, and indeed ominous, misstatement in the Prime Minister's October 31 speech involved the implication that the Iranian Parliament had consciously, and with Government approval, granted the United States military personnel less in the way of immunities than had been understood at the time when our Exchange of Notes took place last year. We immediately explained to him in no uncertain terms that as far as the United States is concerned, it has an agreement with the Iranian Government which had been in effect (if not in form) ratified by the Iranian Parliament. We recalled that the Iranian Government had originally submitted the Exchange of Notes to the Parliament and noted that nowhere, in the published record of the Senate and Majlis debates, had there been any implication in any statement by a Government spokesman, including the Prime Minister himself, that anything less was involved than legislative action designed to permit the Government to give effect to our agreement.

Under the circumstances, special importance attaches to what the Prime Minister said on this point in his speech on November 10. (The translation of the following remarks includes, between parentheses, words added for clarity by the Embassy's legal adviser, Prof. Ali Pasha Saleh, an expert on international law.)

> "I have repeatedly said, and of course it was stated again in the Senate, that the Chief and Members of the American Military Advisory Mission in Iran who are performing (their) duty with the support of the Government are, according to the Vienna Convention enjoying the privileges related to administrative and technical staff as prescribed by Paragraph 2, Article 37 of the said Convention. The law, after being communicated to the Government, will

> be put into effect exactly (as it is). The Bill (on the basis of which this law was enacted) carried as enclosures two notes from the Iranian Ministry of Foreign Affairs and the United States Embassy in Tehran which were submitted to the Majlis, and it was with (due) regard to their purport that the legal text (i.e., the text of the law) was approved. And as to the non-technical employees who are serving with the Military Advisory Mission but who may not be confirmed by the Government as members of the Mission, as intimated in the Senate, obviously neither they nor their families will be covered by the approved law, a fact precisely stated in the Vienna Convention..."

In Persian, these sentences were even more involved than in the studied English translation, and they no doubt went over the heads of all the Prime Minister's listeners and are hardly comprehensible to the layman. Dr. Naser Yeganeh, however, promised to transmit the text with necessary elucidations to the Foreign Minister; and on November 15 we were informed by Dr. Mahmoud ZIAI, Chairman of the Majlis Foreign Affairs Committee, that Yeganeh had had a one-and-one-half hour session with Foreign Minister ARAM in which he had explained to him, on orders of the Prime Minister, that there can be no doubt that the original Exchange of Notes is to be regarded as confirmed by the Status Bill.

It will be noted that while the Prime Minister went far toward clarifying all the moot questions, he did not do so completely in his Majlis speech. There is still an implication that it would be up to the Iranian Government to determine who are members of our military missions and that there is a distinction between technical and non-technical personnel -- something that is found neither in the Exchange of Notes nor in the Status Bill; the phrase "Military Advisory Mission" is still used in the singular (whereas in the Exchange of Notes it is in the plural, with the word "Advisory" deliberately omitted in our Note No. 299); and, of course, only a person familiar with Paragraph 2, Article 37 of the Vienna Convention will know that families are covered and that immunities do apply in all criminal cases and in the case of civil offenses committed while on duty.

The main benefit we have obtained from this exercise in clarification has been a somewhat improved understanding of our coverage on the part of the Government itself.

For the Ambassador:

Martin F. Herz
Counselor of Embassy
for Political Affairs

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MEMORANDUM FOR THE RECORD

November 23, 1964

While in the Foreign Ministry on other business today, I dropped in on Mr. Ezoddin KAZEMI, Chief of the Legal Division, to ask him when the Status Bill will be in effect. He did not know the answer, but he invited me (and Mr. Helseth, who was with me) to have coffee. In the ensuing discussion I was able to bring the conversation around to our proposed Exchange of Notes clarifying the coverage of the Status Bill.

I asked Mr. Kazemi in what respect the Draft Note that Mr. Aram had shown our Ambassador is legally different from a simple acknowledgment and confirmation of our proposed note. Mr. Kazemi said there is really very little difference, but the Government found it necessary to stick as closely as possible to the letter of the Status Law, for legal and constitutional reasons. I said that as far as we are concerned we find it necessary to stick as closely as possible to the language of our Note #299. I asked Mr. Kazemi whether he saw any substantive difference. Did not the law enable the Government to apply our Exchange of Notes, particularly since our notes were confirmed by the Status Law? I added that, even if there had been no such confirmation, we felt that the only way the Exchange of Notes made sense was that the Parliament had closed a legal loophole so that the Government could now apply the Exchange of Notes.

In reply to a question, Mr. Kazemi said he thought that the proposed Iranian note could be "touched up a little" so that we would have no trouble in accepting it as a reply to our proposed note. However, in the course of the ensuing discussion he made some rather disquieting observations -- while emphasizing that he was speaking personally and that we must agree that this conversation "had not taken place." In particular, he said:

(1) There is no agreement between the United States Government and the Iranian Government as a result of the exchange of our Notes 8296 and 299 since the exchange was clearly contingent upon approval by the Iranian Parliament. If the Iranian Parliament had rejected the Exchange of Notes they would have been without any legal validity whatsoever.

(2) In effect, the Iranian Parliament did approve the Exchange of Notes "indirectly" (i.e., by reference). However, a legal case could be made that the Iranian Parliament had approved only part of our Exchange of Notes.

(3) As far as the wording of the Iranian draft reply is concerned, Mr. Kazemi continued, it was felt necessary to stick as closely as possible to the words that had been used by the Prime Minister in his speech in the Majlis on November 10 when he had said that "the Bill was approved with due regard to the purport of (the Exchange of Notes)."

A case might be made, Kazemi continued, that by having "due regard" the Parliament had approved that part of the Exchange of Notes which required Parliamentary approval, according to Note #8296. In that case, our own definition of our coverage as contained in our Note #299 would be without a legal base since the Government had never accepted it. I said that if such a point were raised we would be in no position to accept it, since we consider that there was an agreement between our two Governments which had been submitted to the Iranian Parliament and which, according to the legislative record, had been accepted not only in part, but confirmed as a whole; whereupon Mr. Kazemi (see Paragraph 1 above) reverted to the argument that there was really no agreement between our two Governments since the Iranian Government, rather than accepting the definition of Note #299, had merely agreed to submit our Exchange of Notes to the Parliament.

After this, Mr. Kazemi became more accommodating. He said that he thought there had been no need to submit the whole business to Parliament in the first place and that in effect "we would get all the coverage that had been required." I said that if the Iranian Government wished to take a restrictive position they could, of course, claim that since no U. S. military personnel were in the employ of the Iranian Government, we had obtained no coverage whatsoever. Mr. Kazemi smiled and said that this would, of course, be an absurd outcome and that there is no intention of being restrictive. As on some previous occasions, the conversation ended by his saying that all these matters could be worked out to our mutual satisfaction; and he again confirmed that the proposed Iranian note could be touched up to make it more acceptable to us and that the piece of paper handed to the Ambassador by the Foreign Minister was merely a rough draft

POL: MFHerz:vme

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NO: A-262

TO: DEPARTMENT OF STATE

FROM: Amembassy TEHRAN DATE: Nov. 23, 1964

SUBJ: Vienna Convention - Status Bill

REF: Department telegram 419 of November 16, 1964

The text of the Government's original bill, submitted to the Senate on 25/11/42 (March 15, 1964) (Bill No. 2157/2291/18) was as follows:

"Single Article. The Senate at its meeting of (blank) approved the text of Note No. 8296 dated 26/8/42 (November 17, 1963) of the Imperial Iranian Ministry of Foreign Affairs and Note No. 299 dated December 18, 1963 of the United States Embassy in Tehran and authorized the Government to executive its provisions and undertakings under it."

The enclosure to this draft bill were the notes transmitted by the Embassy most recently in its telegrams 523 and 544 of November 5 and 14, 1964.

Comparison of the Persian original of the words "in the employ o the Imperial Government" in the Status Bill (Enclosure 1 of A-195) wi the Prime Minister's phrase "performing duties with confirmation of t Government" shows that there is no similarity between the two clauses so that it would be difficult to claim that the latter phraseology is a more accurate rendition of the former.

For the Ambassador:

Martin F. Herz
Counselor of Embassy
for Political Affairs

CONFIDENTIAL
GROUP 3

POL:MFHerz/mja November 21, 1964

OUTGOING AIRGRAM
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POUCH:
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KUWAIT
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ARMA
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ALUSNA
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33/rp

NO: A-263

TO: DEPARTMENT OF STATE

FROM: Amembassy TEHRAN DATE: Nov. 23, 1964

SUBJ: Communist Comment on the Status Bill

REF: Embassy Airgram A-250 of November 17

Hardly had we dispatched our A-250 noting the apparent absence of Communist comment on the Status Bill when our monitors picked up the first such comment. It was from Payke Iran, the Tudeh Party station in East Germany, and the broadcast was heard on November 18, or one day after our airgram.

"In resorting to this international agreement," the broadcast said in part, "the Shah and his treacherous accomplices have given diplomatic immunity to a great number of American spies who have been known in the world as butchers of the freedom and independence of the peoples of Asia, Africa and Latin America, and have brought under their control the Iranian Army and its prestige... They receive their bone-breaking salaries and allowances, which are a heavy burden on the poor state budget of Iran, from the treasury of the Iranian Government."

This is the first time that we have noted, as an argument against the presence of U.S. military advisers in Iran, the contention that they involve a heavy burden on the Iranian budget. Most people here think that the services of all our advisory personnel are furnished as aid.

For the Ambassador:

Martin F. Herz
Counselor of Embassy
for Political Affairs

LIMITED OFFICIAL USE

POL:MFHerz/mja Nov. 21, 1964

MEMORANDUM FOR THE RECORD

November 27, 1964

Subject: Confirmation of Coverage of the Status Law

The Ambassador had two conversations yesterday with Foreign Minister Aram on the proposed Exchange of Notes whereby, in connection with our offer of waiver provisions, the Iranian Government would reconfirm the coverage originally envisaged in our Exchange of Notes (8296 and 299).

In the first conversation, in the Foreign Ministry in the morning, Aram said he could accept the addition of the words "and arrangements" in the second paragraph; but he had difficulty in accepting deletion of the word "Advisory" in the clause "relating....to the United States Military Advisory Missions in Iran." He argued that he had to keep to the language of the law, which speaks of Advisory Missions. The Ambassador argued that the original Exchange of Notes, which speaks of "Military Missions" in our 299, is still in effect. Aram neither confirmed this nor denied it, but pointed out that in the last paragraph of the proposed Iranian reply to our note, the "content of (our) note" would be confirmed i.e., by indirection our position, that the original Exchange of Notes is still valid, would be sustained.

At this point the Ambassador said that it would not do to have ambiguity in our proposed Exchange of Notes. Its purpose is to make things clear so that in the future there would be no differences about this matter. On Aram's instruction Mr. Kazemi, who had been called into the meeting, tried to get in touch with Dr. Yeganeh (who has been taking the position with us that the original Exchange of Notes was confirmed by the Status Law), but apparently he was unable to get him on the telephone.

In this conversation, and before Dr. Kazemi was called in, the Ambassador referred to Kazemi's position that the original Exchange of Notes has been superseded by the law, as one reason why we need to have it clear who is and who is not covered. Aram took the position that we have a clear understanding between us which involves application of the immunities to all our personnel, and it would be sufficient for us just to submit the names of the people whom we wished to have covered. The Ambassador said that, in view of the classified nature of some of the work, this would be impossible. Aram said he was aware of the classified activities involved. He also said, incidentally, that he had been ordered by the Shah to clear up the confirmation of the status arrangements before his departure for New York tomorrow.

In the evening, at the Ambassador's residence, Aram made a new proposal. He asked if it would be acceptable if the Foreign Ministry just sent us a note which would, first, advise us that the Parliament had passed the Status Law which authorizes the Government to extend certain privileges to those American Military Advisory personnel who are in the employ of the Iranian Government; and the note would then go on to state simply that other technical and advisory personnel of the Embassy would be covered by the relevant provisions of the Vienna Convention. Under this arrangement as Aram proposed it, the Embassy would reply by defining the additional persons covered by the Vienna Convention as those who had been described in our Note 299.

The Ambassador said he would have to consult his experts whether this solution (which, incidentally, does not involve any waiver provisions) would be acceptable.

POL: MFHerz:vme
11/28/64

MEMORANDUM FOR THE RECORD

November 28, 1964

Subject: Confirmation of Coverage of the Status Law

Pursuant to the Ambassador's instruction, I went to see Foreign Minister Aram at about 12 noon yesterday to transmit our proposal that, after the first paragraph of the proposed Foreign Ministry Note (which would simply contain the restrictive language of the Status Law) there be added a second sentence which would read:

> "With respect to other United States military personnel and civilian employees of the Department of Defense who are in Iran in accordance with agreements and arrangements providing for military cooperation between the two Governments, these will be also considered as coming under the purview of Article 1, paragraph f of the Vienna Convention."

Mr. Aram glanced at the paper and said that things would be much simpler if in place of "military personnel and civilian employees of the Department of Defense" we merely said "personnel of the Embassy." I said this would from our point of view have the difficulty of not confirming what it had been our intent in Note 299 to confirm. I than remarked that Mr. Kazemi had expressed to us the thought that it was up to the Foreign Ministry to confirm the diplomatic status of anyone it pleased, so that there was even some question in his mind whether there had been any need to go to the Parliament in the first place. Mr. Aram, who was preoccupied with many other pending matters, did not seem to have entered upon the thought but merely noted that we should not concern ourselves with what his subordinates were saying. It was clear, however, that he thought the paper we had submitted would be difficult for him to accept.

Mr. Aram did, however, make two interesting remarks. He said that "the courts will not apply a diplomatic note." He also said that he had discussed the matter with HIM who had expressed surprise that it had been necessary to exchange any diplomatic notes or go to the Parliament since "no one will make any trouble for our American military advisers." I made the usual reply that the purpose of having things clear is that sometime in the future there could be no uncertainty about who is covered. After all, I said, we must not be worse off after passage of the law than before. Again, Mr. Aram did not seem to have listened with both ears, for he merely remarked that he agreed that we are now worse off after passage of the law than we were before.

Group 4
CONFIDENTIAL

The same evening, at the Ambassador's instruction, I called on the Foreign Minister again at about 8:30 p.m. Major Hart was present during part of the interview. The Foreign Minister was busy behind his desk while, at a separate table, were sitting Dr. Naser Yeganeh, Minister of State and Parliamentary Undersecretary; Mr. Ahmad Mirfendereski, Political Director General, and Dr. Ezoddin Kazemi, the Foreign Ministry's Legal Adviser. My conversation was exclusively with the latter gentlemen. The Foreign Minister meanwhile read and sorted papers, received callers, but occasionally looked in our direction and seemed to listen. At the end of the 1½-hour conversation, when it had become quite clear to those at the table that we were very far from agreement and as we were about to take our leave, the Foreign Minister inquired whether we had now settled matters. In other words, he was not part of the discussion even though it took place in his office.

The conversation began by Dr. Yeganeh pointing to the draft note which Mr. Aram had given to our Ambassador, as though it were a new proposal. I explained why we had proposed deletion of the word "Advisory" and insertion of the words "and arrangements." I then explained that we had thought the Foreign Minister's latest proposal helpful because it made a distinction between American military personnel who had needed parliamentary action to obtain diplomatic privileges, and those personnel who could be accorded the privileges without the need for parliamentary action. Dr. Yeganeh said this was basic. The Iranian Government wished to accord the immunities and exemptions to all American military advisory personnel -- some by virtue of the Status Law, some by virtue of the Vienna Convention.

At this point the discussion went off the rails. Mr. Mirfendereski asked whether, in our opinion, the category "technical and administrative personnel" of our Embassy includes those personnel of our military missions who are not covered by the proposed note of the Ministry. I said yes, if you like. Did Mr. Mirfendereski agree? Mr. Mirfendereski said yest, but it was up to us to declare them as being technical and administrative personnel. I said all right, then why not say this in the proposed Iranian note? Mr. Kazemi thereupon proposed the following language, in lieu of the second paragraph which we had proposed:

> "Now that the Vienna Convention has been ratified by the Iranian Parliament the administrative and technical personnel of the American Embassy will also enjoy the immunities and privileges provided by Article 37, paragraph 2 of the above-mentioned Convention."

I said that if Ambassador Holmes proposed such language for acceptance by Washington, there would be laughter. After all, it does not require a diplomatic note to confirm that Iran will abide by the Vienna Convention. If we reported to Washington that the Iranian Government does not wish to state that our military personnel in Iran are covered by the Vienna

Convention, the impression would be created that there never was an agreement between us, notwithstanding all the previous notes we had exchanged. I had thought, I said addressing Dr. Yeganeh, that the original understanding between us is still valid and in force. (Dr. Yeganeh nodded.) Are we now to understand that this is not so? What, then, was the purpose of going to Parliament and having all the political trouble?

Dr. Yeganeh, who up to this point seemed to be on our side, now took a position which indicated that the Foreign Ministry lawyers had subjected him to some brainwashing. He said that the law applies only to ARMISH personnel who are here under the 1947 agreement. He asked under what agreements the other personnel are here, and said that he had to study those agreements to see whether they come under the provisions of the law. Major Hart, who had by this time arrived, joined me in trying to get the discussion back on the track. Since Kazemi seemed to regard it as so important that our personnel be "introduced" to the Foreign Ministry in order to benefit from Vienna Convention immunities, we proposed:

> "As regards the other personnel of the United States Department of Defense who are in Iran in connection with agreements and arrangements providing for military cooperation between the two Governments, the Imperial Government will, if such personnel are introduced by the United States Embassy as part of its technical and administrative personnel, consider them as falling under the purview of Article 1, paragraph f of the Vienna Convention."

Mr. Yeganeh again side-tracked the discussion by saying that as regards strictly advisory personnel, their immunities could be confirmed; but he had to see the agreements to see whether they are advisory. In any case, they would have to be "introduced." The Iranian Government could not define what personnel would be given immunities, it was up to us to introduce them, whereupon the Iranian Government would confirm them. All we had to do is to submit lists, and those personnel who are advisory would be confirmed. I said that this left the decision to the Iranian Government. The purpose of our Exchange of Notes is to make clear who is covered. We already knew that the Iranian Government has the power to accord immunities to anyone it pleases; but the purpose of our exercise is to state clearly who will get them. Dr. Kazemi thereupon proposed another impossible draft:

> "Now that the Vienna Convention has been ratified, the administrative and technical personnel of the American Embassy who will be introduced (as such to the Foreign Ministry) will also enjoy the immunities and privileges provided in Article 37, paragraph 2 of the Vienna Convention."

I again said this is obvious and requires no note. Mr. Mirfendereski turned to Mr. Kazemi and gave him a glance as though to say, "I told you this would be their reaction." Thinking that Mr. Mirfendereski was on our side, I turned to him and asked him why the Iranian Government could not simply confirm that those advisers not covered by the law would be accorded diplomatic privileges under the Vienna Convention. His reply was significant: "Technical and administrative personnel work for the Embassy. They don't play a part in the life of the receiving country." (This meant, in other words, that they cannot create a legal fiction in a diplomatic note -- but they are prepared, on an ad hoc basis, to accept such a legal fiction if we wish to create it.)

I said that in that case why had they ever accepted our Note 299? Did we then have a meeting of the minds or did we not? Had not the Government submitted the Exchange of Notes to the Parliament as constituting an agreement between our two Governments? (Mr. Yeganeh at this point became helpful again and nodded agreement.) Were we to understand that the Iranian Government now did not wish to state that our military advisers will have immunity? Is the outcome of the whole exercise to be that only 10% of our military personnel in Iran are covered? Did they, or did they not, wish the Vienna Convention to apply to our military in Iran? Everybody hastened to say that the answer was in the affirmative, but it was brought out quite clearly that nobody had the courage to accept having it in writing.

After further inconclusive discussion, the meeting broke up at about 10:00 p.m. when the Minister himself inserted himself into the discussion. He merely said it was very difficult to go behind the law. Major Hart said that General Eckhardt would be seeing HIM on December 3 and could, if desirable, raise the matter with him then. Mr. Aram quickly retorted that this is not necessary as we still have a few days to work things out before the law is promulgated. Dr. Kazemi asked if we are aware that under his proposed formulation, the Foreign Ministry would have no choice but to accept, automatically, anyone whom we certify as falling under the heading "technical and administrative." We were standing in a group, ready to take our leave, when one final formulation was attempted, along the following lines:

> "After the Vienna Convention has been approved, the administrative and technical personnel of the United States Embassy who are in Iran under existing agreements and arrangements between the two Governments and who are introduced by the Embassy, will also enjoy the privileges and immunities provided by....(etc.)"

We tried to add words which would make clear what kind of personnel are involved and by virtue of what kind of agreements they are here, but

our Iranian interlocutors shied away from any such formulations. And there the matter ended. Dr. Yeganeh said he would undertake legal researches and come up with a formulation that would surely meet everyone's problem.

POL: MFHerz:vme

TELEGRAM Foreign Service of the United States of America

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Classification

Charge: State

Control: 62

Date: Dec 5, 1964
1700

ACTION: Secstate WASHINGTON 630

INFO : CINCSTRIKE 44

CINCSTRIKE for POLAD

Deptel 419 and Embtel 566

After General Eckhardt raised subject of status bill coverage with Shah on Thursday, we are now hopeful that satisfactory notes will be exchanged on this matter in near future.

We had been in almost continuous discussion of this matter with FonOff during recent weeks, and came close to resolving it prior to Aram's departure for New York; but FonOff always shied away from explicit confirmation in writing of what they keep telling us orally, that regardless of restrictiveness of the law, they have authority under Vienna Convention to extend immunities to all our military personnel under the heading of "administrative and technical staff" of the Embassy.

It now appears that we will receive two notes from FonOff. One will refer to the Status Law (which has still not been promulgated) authorizing govt to extend immunities to advisory personnel "in the employ of Imperial Government"; and the other referring to Vienna Convention and extending immunities to other personnel. Shah understands why latter note has to be reasonably specific to be of any use to us.

It is.../

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Foreign Service of the United States of America

OUTGOING

Charge: ~~CONFIDENTIAL~~ Classification Control: 62

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It is quite clear what the real difficulty is: After the recent uproar in Parliament and public opinion over this matter, FonOff officials are reluctant to put their signature on a document that seems to go beyond the letter of what the Iranian Parliament authorized. They are probably afraid of some witch hunt in the future. One official has practically admitted this to us.

We went through this kind of difficulty before in connection with Exercise Delaware; in that case, the Shah's command finally cut through the legal tangle, and we anticipate the same thing will happen now.

GP-3.

HEWLESS

POL:MYhers/mjn
December 5,1964

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TELEGRAM

Foreign Service of the United States of America

OUTGOING Amembassy Tehran

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Charge: CONFIDENTIAL Classification Control: 111

Date: Dec 9, 1964 1700

ACTION: Secstate WASHINGTON 643

INFO: CINCSTRIKE 45

CINCSTRIKE for POLAD

Deptel 419 and Embtel 630, Vienna Convention.

I am pleased to report that we have today consummated satisfactory exchange of notes on immunities and exemptions of our military missions in Iran.

There are altogether three notes, texts of which will be pouched:

24/mj

1. One Iranian note referring to our note 299 and transmitting text of law passed on October 13 (Embassy A-195);

2. Another Iranian note also replying to our note 299, referring to recent ratification of Vienna Convention, and containing satisfactory statement that immunities and exemptions will apply to "American military and non-military personnel who are in Iran under agreements or arrangements between the two Governments."

3. Our reply, acknowledging the two replies to our note 299 as also constituting favorable and acceptable response to our note 243, and adding waiver provision as per Deptel 419 with restrictive definition (accepted by FonOff) to make sure it cannot be invoked in case of traffic and other minor offenses.

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Foreign Service of the United States of America

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- 2 -

Department will note that manner in which notes have been drafted also relieves us of need to argue that units such as Gulf District, Signal Relay etc. come under heading of "advisory" as note 2 covers everybody not covered under note 1.

In difficult and protracted discussion to bring about this result it has been necessary to modify language supplied in Deptel 413, but all our essential requirements are met and in some cases they are exceeded.

Status Law has not yet been promulgated. Probable date of promulgation is December 17.

GP-3

HOLMES

POL: MFHeras:vmc
ARMISH/MAAG: Major Harr

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Translation

TREATY AND LEGAL AFFAIRS OFFICE

No. 9760 9/18/43 [DECEMBER 9, 1964]

MINISTRY OF FOREIGN AFFAIRS

NOTE

The Imperial Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to refer to note No. 299 of December 18, 1963, and encloses copies of the law approved on Mehr 21, 1343 [October 13, 1964].

The said law empowers the government to allow the chief and members of military advisory missions of the United States of America in Iran, whose services are engaged by the Imperial Government, in accordance with the appropriate agreements, to enjoy the privileges and immunities specified by the Vienna Convention on diplomatic relations of 1961, for members of the administrative and technical staff described in Article 1 of the Convention.

I avail myself of this opportunity to renew the assurances of my highest consideration.

EMBASSY OF THE UNITED STATES OF AMERICA.
Tehran.

OFFICE: TREATY AND LEGAL AFFAIRS

MINISTRY OF FOREIGN AFFAIRS

Law Granting American Military Advisers in Iran the Enjoyment of the Privileges and Immunities of the Vienna Convention.

ARTICLE I

Pursuant to Government Law No. 2157/2291/18 of 11/25/1342 and annexes thereto dated 11/21/42 presented to the Senate, the Government has been empowered to allow the chief and members of military advisory missions of the United States of America in Iran, whose services are engaged by the Imperial Government in accordance with the appropriate agreements, to enjoy the privileges and immunities specified by the Vienna Convention, signed on April 18, 1961, corresponding to Farvardin 29, 1340, for members of the administrative and technical staff described in Article I of the Convention.

TIAS 6594

اداره عهود وامورحقوقی
شماره ۹۷۶۰
تاریخ ۴۴/۹/۱۸
پیوست دارد

وزارت امورخارجه

یـــادداشـــت

وزارت امورخارجه شاهنشاهی تعارفات خود را بسفارت کبرای کشورهـــای متحده امریکا اظهار واحتراماً عطف به یادداشت شماره ۲۹۹ مورخ ۱۸ دسامبـــر ۱۹۶۳ بدینوسیله نسخه ای ازقانون مصوب ۲۱ مهرماه ۱۳۴۳ رابضمیمه ایفـــاد میـــدارد :

قانون مزبور بدولت اجازه میدهد که رئیس واعضاء هیئت های مستشاری نظامی کشورهای متحده امریکا در ایران راکه بموجب موافقت نامه های مربوطه در استخـــدام دولت شاهنشاهی میباشند ازمصونیت هاومعافیت های مقرره برای کارمنـــــدان اداری وفنی موصوف دربند "و" ماده اول قراردادوین درباره روابط سیاسی مورخ ۱۹۶۱ برخوردارنمایـــد .

موقع رامغتنم شمرده احترامات فائقه راتجدید میـــدارد .

سفارت کبرای کشورهای متحده امریکا ــ تهران

اداره عهود وامورحقوقی
شماره
تاریخ
پیوست

وزارت امورخارجه

قانون اجازه استفاده مستشاران نظامی امریکا در ایـــران ازمصونیتها ومعافیت های قرارداد وین

ماده واحـــده

باتوجه بلایحه ۱۸/ ۲۲۹۱/ ۲۱۵۷ــ۲۵/ ۱۱/ ۱۳۴۲ دولت وضمائم آن کـــه در تاریخ ۲۱/ ۱۱/ ۴۲ به مجلس سنا تقدیم شده بدولت اجازه داده میشود که رئیـــس واعضای هیاتهای مستشاری نظامی ایالات متحده را در ایران که بموجب موافقت نامه هـــای مربوط در استخدام دولت شاهنشاهی میباشند ازمصونیتها ومعافیتهای شامل کارمنـــــدان اداری وفنی موصوف دربند (و) ماده اول قرارداد وین که در تاریخ هیجدهم آوریـــل ۱۹۶۱ مطابق بیست ونهم فروردین ماه ۱۳۴۰ بامضاء رسیده است میباشد برخـــوردار نمایـــد .

ادارہ عهود وامورحقوقی
شماره ۹۷۶۳
تاریخ ۴۴/۹/۱۸
پیوست ندارد

وزارت امورخارجه

یـــادداشـــت

وزارت امورخارجه شاهنشاهی تعارفات خود را بسفارت کبرای کشورهـــای متحده امریکا اظهارودریاسخ یادداشت شماره ۲۹۹ مورخ ۱۸ دسامبـــر ۱۹۶۱ — احتراما باطلاع میرساننـــد :

نظربااینکه قرارداد وینـــ درباره روابط سیاسی مورخ ۱۹۶۱ مراحل تصویـــب قانونـــی ازمجالس مقننه ایران راگذرانیده است کارمندان نظامی وغیرنظامی امریکائـــی که طبق موافقت نامه هاياترتیباتی که بین دولت شاهنشاهی ایران ودولت کشورهـــای متحده امریکامقررگردیده درایران میباشند وازطرف سفارت کبرای کشورهای متحـــده امریکابعنوان کارمندان اداری وفنـــی سفارت کبری بوزارت امورخارجه شاهنشاهـــی معرفی میشوند ازمصونیت هاومعافیت های موضوع بند ۲ ازماده ۳۷ قرارداد وینـــ درباره روابط سیاسی استفاده خواهندکرد .

موقع رامغتنم شمرده احترامات فائقـه خود راتجدید مینمایـــد .

سفارت کبرای کشورهای متحده امریکا — تهران

Translation

Ministry of Foreign Affairs
Division of Treaties and
Legal Affairs
No. 9762
18/9/43 [December 9, 1964]
(Without Enclosure)

NOTE

The Imperial Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and in reply to Note 299 of December 18, 1963 has the honor to inform:

In view of the fact that the Legislative Assemblies of Iran have consummated the ratification of the Vienna Convention dated 1961 concerning diplomatic relations, American military and non-military personnel who are in Iran under agreements or arrangements made between the two Governments and who are presented to the Imperial Ministry of Foreign Affairs by the Embassy under the heading of Embassy technical and administrative staff, will enjoy the immunities and exemptions which are the subject of paragraph 2, Article 37 of the Vienna Convention concerning diplomatic relations.

The Ministry avails itself of this opportunity to renew to the Embassy the assurance of its highest consideration.

[SEAL]

EMBASSY OF THE UNITED STATES OF AMERICA,
Tehran.

ARMISH/MAAG MEMBERS and DIPLOMATIC IMMUNITY

مصونیت سیاسی اعضاء هیئت مستشاری نظامی امریکا در ایران

The law providing diplomatic immunity to ARMISH/MAAG members

قانون مربوط بمصونیت سیاسی اعضاء هیئت مستشاری نظامی

ARTICLE 1. Pursuant to bill No. 2157/22-91/18 of 14 February 1964 (25/11/1342) of the Government and annexes thereto dated 10 February 1964 (21/11/1342) presented to the Senate, the Government has been authorized to accord to the Chief and members of the United States Military Advisory Missions in Iran, who are in employment of the Imperial Government in accordance with the pertinent agreements, the same immunities and exemptions provided by the Vienna Convention, signed 18 April 1961, corresponding to 29 Farvardin 1340, to the members of the administrative and Technical Staff described in Article 1 paragraph f of the convention.

ماده واحده — با توجه به لایحه شماره ۲۲۹۱/۱۸/۲۱۵۷—۲۵/۱۱/۱۳۴۲ دولت و ضمائم آن که در تاریخ ۲۱/۱۱/۱۳۴۲ بمجلس سنا تقدیم شده بدولت اجازه داده میشود که رئیس و اعضای هیئتهای مستشاری نظامی ایالات متحده را در ایران که بموجب موافقت نامه های مربوطه در استخدام دولت شاهنشاهی میباشند از مصونیتها و معافیتهائی که شامل کارمندان اداری و فنی موصوف در بند (و) ماده اول قرارداد وین که در تاریخ هیجدهم آوریل ۱۹۶۱ مطابق بیست ونهم فروردین ماه ۱۳۴۰ باضا رسیده است میباشد برخوردار نماید .

The Note of the Government of Iran concerning implementation of the above law.

یادداشت دولت ایران راجع باجرای قانون فوق الذکر

Ministry of Foreign Affairs
Division of Treaties and Legal Affairs
No. 9762
Date: 9 December 1964

وزارت امور خارجه
اداره عهودات و امور حقوقی
شماره ۹۷۶۲
تاریخ — ۱۳۴۳/۹/۱۸

Note

یادداشت

The Imperial Ministry of Foreign Affairs presents its compliments to the Embassy

وزارت امور خارجه شاهنشاهی تعارفات خود را بسفارت کبرای کشورهای متحده امریکا اظهار و در

ENCLOSURE 1

OF the United States of America and in reply to Note 299 of 18 December 1963 has the honor to inform:

باضع یادداشت شماره ۲۹۹ مورخ ۱۸ دسامبر ۱۹۶۳ احتراماً باطلاع میرساند :

In view of the fact that the legislative assemblies of Iran have consummated the ratification of the Vienna Convention dated 1961 concerning diplomatic relations, American Military and Civilian Personnel who are in Iran under agreements or arrangements made between the two Governments and who are presented to the Imperial Ministry of Foreign Affairs by the Embassy under the heading of Embassy technical and administrative staff, will enjoy the immunities and exemptions which are the subject of paragraph 2, Article 37 of the Vienna Convention concerning diplomatic relations.

نظربانکه قرارداد وین درباره روابط سیاسی مورخ ۱۹۶۱ مراحل تصویب قانونی از مجالس مقننه ایران را گذرانیده است کارمندان نظامی وغیر نظامی امریکائی که طبق موافقت نامه ها یا ترتیباتی که بین دولت شاهنشاهی ایران ودولت کشورهای متحده امریکا مقرر گردیده در ایران میباشند و از طرف سفارت کبرای کشورهای متحده امریکا بعنوان کارمندان اداری و فنی سفارت کبری بوزارت امور خارجه شاهنشاهی معرفی میشوند از مصونیت ها و معافیت های موضوع بند ۲ از ماده ۳۷ قرارداد وین درباره روابط سیاسی استفاده خواهند کرد .

The Ministry avails itself of this opportunity to renew to the Embassy the assurance of its highest consideration.

موقع را مغتنم شمرده احترامات فائقه خود را تجدید مینماید .

(Seal)

(مهر)

Embassy of the United States of America, Tehran.

سفارت کبرای کشورهای متحده امریکا — تهران

VIENNA CONVENTION

قرارداد وین

Article 1

ماده ۱

Paragraph f. The members of the administrative and technical staff are the members of the staff of the Mission employed in the administrative and technical service of the Mission.

بند (و)— اصطلاح کارمندان اداری و فنی یعنی آن دسته از کارمندان ماموریت که بامور اداری و فنی ماموریت اشتغال دارند .

Article 37

ماده ۳۷

Paragraph 2. Members of the administrative and technical staff of the Mission, together with members of their families forming part of their respective household shall,

بند (۲) — کارمندان اداری و فنی ماموریت و همچنین بستگان آنها که اهل خانه آنها هستند بشرط آنکه تبعه کشور پذیرنده یا مقیم دائم آن

If They are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Article 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving state specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36 paragraph 1, in respect of articles imported at the time of first installation.

کشور نباشند از مزایا و مصونیتهای مندرج در مواد ۲۹ تا ۳۵ بهره‌مند خواهند بود ولی مصونیت از صلاحیت مقامات دولت پذیرنده در امور مدنی واداری موضوع بند اول ماده ۳۱ شامل اعمال خارج ازوظایف آنها نخواهد شد . اشخاص مذکور همچنین ازمزایای مندرج در قسمت اول ماده ۳۶ در مورد اشیائی که برای استقرار اولیه وارد میکنند استفاده خواهند نمود .

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

ماده ۲۹

شخص مامور سیاسی مصون است و نمی توان او را بهیچ عنوان توقیف یا بازداشت کرد کشور پذیرنده با وی رفتار محترمانه‌ای که در شأن اوست خواهد داشت و اقدامات لازمه را برای ممانعت از وارد آمدن لطمه به شخص و آزادی و حیثیت او بعمل خواهد آورد .

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property shall likewise enjoy inviolability.

ماده ۳۰

۱ — محل اقامت خصوصی مامور سیاسی مانند اماکن ماموریت مصون از تعرض و مورد حمایت خواهد بود .

۲ — اسناد و مکاتبات و همچنین اموال مامور سیاسی با رعایت بند ۳ ماده ۳۱ مصون خواهد بود .

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

ماده ۳۱

۱ — مامور سیاسی در کشور پذیرنده از مصونیت تعقیب جزائی برخوردار است و از مصونیت دعاوی مدنی واداری نیز بهره‌مند خواهد بود مگر در موارد زیر:

a. A real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purpose of the mission;

الف — دعوی راجع بمال غیر منقول خصوصی واقع در قلمرو کشور پذیرنده مگر آنکه مامور سیاسی آن مال را بنمایندگی کشور فرستنده و برای مقاصد ماموریت در تصرف داشته باشد .

b. An action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

ب — دعوی راجع به ماترکی که در آن مامور سیاسی بطور خصوصی و نه بنام کشور فرستنده وصی وامین ترکه و وارث یاموصی‌له واقع شده باشد .

c. An action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

ج — دعوی ناشی از فعالیتهای حرفه‌ای یا تجاری از هر نوع که مامور سیاسی در خاک کشور پذیرنده و خارج از وظایف رسمی خود بآن اشتغال دارد .

2. A diplomatic agent is not obligated to give evidence as a witness.

۲ — مامور سیاسی مجبور باداى شهادت نیست.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraph a, b and c of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

۳ — علیه مامور سیاسی مبادرت بهیچ گونه‌عملیات اجرائی نخواهد شد جز در موارد مذکور در بندهای الف — ب — ج قسمت اول این ماده و بشرطآنکه این عملیات اجرائی بمصونیت شخص یا محل اقامت او لطمه وارد نیاورد .

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from jurisdiction of the sending State.

٤ — مصونیت قضائی مامور سیاسی در کشورپذیرنده او را از تعقیب قضائی کشور فرستنده معاف نخواهد داشت.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

ماده ۳۲

۱ — کشور فرستنده میتواند مصونیت قضائی مامورین سیاسی واشخاصی را که طبق ماده ۳۷ ازمصونیت برخوردارند سلب نماید .

2. Waiver must always be express.

۲ — سلب مصونیت باید صراحتاً اعلام شود .

2. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

۲ — در صورت اقامه دعوی از طرف مامور سیاسی یا شخصی که طبق ماده ۳۷ از مصونیت قضائی بهره‌مند است استناد به مصونیت قضائی در قبال دعاوی متقابل که مستقیماً با دعوای اصلی ارتباط دارد پذیرفته نخواهد شد .

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary.

۴ — سلب مصونیت قضائی نسبت بدعوای مدنی یا اداری متضمن سلب مصونیت نسبت به اجرای حکم نخواهد بود . برای اجرای حکم سلب مصونیت جداگانه لازم است.

Article 33

ماده ۳۳

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

۱ — مامور سیاسی با رعایت بند ۳ این ماده در مورد انجام خدمت برای کشور فرستنده از مقررات بیمه های اجتماعی که ممکن است در کشور پذیرنده لازم‌الاجرا باشد معاف است.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agents on condition:

۲ — معافیت مندرج در بند ۱ این ماده شامل خدمتکاران شخصی نیز که در استخدام شخصی مامور سیاسی میباشند میگردد مشروط بر آنکه این خدمتکاران :

a. That they are not national of or permanently resident in the receiving State; and

الف — تبعه کشور پذیرنده نبوده و یا در آنجا اقامت دائم نداشته باشند .

b. That they are covered by the social security provisions which may be in force in the sending State or a third State.

ب — مقررات بیمه های اجتماعی کشور فرستنده یا کشور ثالثی در مورد آنان اعمال گردد .

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply, shall observe the obligations which the social security provisions of the receiving State impose upon employers.

۳ — مامور سیاسی باید در مورد اشخاصی که در خدمت او هستند و مشمول معافیت مندرج در بند ۲ این ماده نمی باشند تکالیف ناشی از مقررات بیمه‌های اجتماعی کشور پذیرنده را که بکارفرما تحمیل میشود رعایت نماید .

4. The exemption provided for in paragraph 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

۴ — معافیت مذکور در بند های ۱ و ۲ این ماده مانع از قبول بالاختیار و استفاده از بیمه های اجتماعی کشور پذیرنده تا حدودی که مورد قبول این کشور باشد نخواهد بود .

5. The provisions of this article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

۵ — مقررات این ماده مخل قراردادهای دو جانبه و چند جانبه که در گذشته راجع به بیمه‌های اجتماعی منعقد شده نبوده و مانع از انعقاد قراردادهائی در آینده نخواهد بود .

Article 34

ماده ۳۴

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

مامور سیاسی از پرداخت کلیه مالیاتها و عوارض منقول و غیر منقول اعم از مملکتی یا منطقه‌ای یا شهری جز در موارد زیر معاف است:

a. Indirect taxes of a kind which are normally incorporated in the price of goods or services;

الف — مالیاتهای غیر مستقیم که معمولاً جزء قیمت کالا یا خدمات محسوب میشود .

b. Dues and taxes on private immovable property situated in the territory of the receiving State for the purposes of the mission;

ب — مالیاتها و عوارض اموال غیر منقول خصوصی واقع در قلمرو کشور پذیرنده جز در مواردیکه مامور سیاسی مال را بنمایندگی کشور فرستنده و برای مقاصد ماموریت در تصرف داشته باشد .

c. Estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39; (paragraph 4 of Article 39 provides the following:

ج — مالیات بر ارث که از طرف کشور پذیرنده دریافت میگردد با رعایت مفاد بند ۴ از ماده ۳۹ : (مفاد بند ۴ ماده ۳۹ مقرر میدارد :

'In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance

در صورت فوت یک عضو ماموریت که تبعه کشور پذیرنده یا مقیم دائم آن کشور نمی باشد و یا در صورت فوت یکی از بستگان او که اهل خانه او هستند کشور پذیرنده خروج اموال منقول متوفی را اجازه خواهد داد باستثنای اموالیکه در کشور پذیرنده تحصیل شده وحین الفوت ممنوع‌الصدور باشد . از اموال منقول که وجود آن در کشور پذیرنده صرفاً بسبب حضور متوفی که در آنجا بسمت عضو ماموریت یا یکی از بستگان

[illegible] shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission).

هضو ماموریت بوده مالیات برارث اخذ نخواهد شد*) .

d. Dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;

د — مالیات و عوارض ماخوذه از درآمد های شخصی حاصل در کشور پذیرنده و همچنین مالیات برسرمایه‌های بکار افتاده در بنگاههای تجارتی آن کشور.

e. Charges levied for specific services rendered;

هـ — مالیات و عوارضی که در قبال انجام خدمات خاصی وصول میشود .

f. Registration, court or record fees, mortgage dues and stamp duty, with respect to inmovable property, subject to the provisions of Article 23 (Article 23 is not applicable to members of administrative and technical staff)

و — هزینه های ثبت و دادرسی و رهن و تمبر در مورد اموال غیر منقول با رعایت مفاد ماده ۲۳ . (ماده ۲۳ شامل کارمندان اداری و فنی نمیگردد) .

Article 35

ماده ۳۵

The receiving State shall exempt diplomatic agents from all personal services, from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

کشور پذیرنده مامور سیاسی را از انجام خدمات شخصی و خدمات عمومی بهرصورت و هر شکل و الزامات نظامی از قبیل انجام خدمت نظامی و شرکت در عملیات نظامی و اسکان در محل معین معاف خواهد داشت.

Article 36

ماده ۳۶

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage cartage and similar services, on:

۱ — کشور پذیرنده طبق قوانین و مقرراتی که ممکن است وضع نماید ورود اشیاء زیر را با معافیت از حقوق و عوارض گمرکی و سایر هزینه‌های مربوطه بجز مخارج انبارداری و باربری و هزینه های مشابه آجازه خواهد داد :

a. Articles for the official use of the mission;

الف — اشیاء مورد استفاده رسمی ماموریت.

b. Articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

ب — اشیاء مورد استفاده شخصی مامور سیاسی یا بستگان او که اهل خانه او هستند همچنین اثاثیه‌ای که برای منزل خود لازم دارد .

Prepared by the Office of the Judge Advocate, ARMISH/MAAG on 29 March 1972

تهیه شده در اداره دادرسی هیئت مستشاری نظامی مورخ ۱۳۵۱/۱/۹

No. 282

The Embassy of the United States of America presents its compliments to the Imperial Ministry of Foreign Affairs and has the honor to acknowledge the Ministry's Notes No. 9760 and 9762 of December 8, 1964 replying to the Embassy's Note No. 299 of December 18, 1963. These notes are also regarded as a favorable and acceptable response to the Embassy's Note No. 423 of March 19, 1962.

In connection with this exchange of notes, and consonant with the provisions of Article 32 of the Vienna Convention, the Embassy is pleased to inform the Imperial Ministry that the authorities of the United States will give sympathetic consideration to a request from the authorities of the Imperial Iranian Government for waiver of immunity in cases where the authorities of the Imperial Iranian Government consider such waiver to be of particular importance. It is understood that cases of "particula importance" would be cases involving heinous crimes and other criminally reprehensible acts.

The Embassy of the United States avails itself of this opportunity to renew to the Imperial Ministry the assurance of its highest consideration.

Embassy of the United States of Ameri

Tehran, December 9, 1964.

Embassy of the United States of America TEHRAN

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TO: DEPARTMENT OF STATE

FROM: Amembassy TEHRAN December 12, 1964

SUBJ: Clarification of the Coverage of the Status Bill

REF: Embassy telegram 643 of December 9, 1964

Enclosed are copies of the three notes which were exchanged on December 9, with the purpose of clarifying the immunities and exemptions that had been envisaged in the exchange of notes (Iranian Note 8296 and American note 299) of a year ago, but which had become somewhat beclouded by the passage on October 13 of a Status Bill which seems to accord such immunities and exemptions only to a narrowly defined group of American personnel. The present exchange of notes provides the desired clarification.

Ever since the Status Bill was passed two months ago -- and indeed even before that event -- we have been holding discussions with the Foreign Ministry to make sure that the intent of the original exchange of notes is carried out irrespective of a possible restrictive interpretation of the Status Law. These discussions, involving legal complexities and the political factors reported in our telegrams 495 and 630, have been quite protracted and arduous.

The solution that has been found mutually acceptable consists in the receipt of two notes from the Foreign Ministry: One (Note 9760, Enclosure 1), merely informs the Embassy of the recent passage of the Status Law applying to "the Chief and Members of the staff of the United States Military Advisory Mission in Iran who are in the employ of the Imperial Government under relevant agreements"; the other (Note 9762, Enclosure 2) refers to the Vienna Convention and accords sweeping coverage to "American military and non-military personnel who are in Iran under agreements or arrangements made between the two Governments" and who are "presented" under the heading of Embassy

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not automatically declassified.

POL:LWilers/mja December 10, 1964

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technical and administrative staff as defined in Article 1, paragraph f of the Convention.

The Embassy's reply to these two notes (Note 282, Enclosure 3), containing the waiver provisions authorized in Deptel 413, ties this correspondence together. Both the Iranian notes reply to our note 299 which (Embtel 552) was also indirectly confirmed by the Status Law; and, still more specifically, our reply ties the two Iranian notes also to our original note 243 which originated the entire exchange.

It should be noted that all words appearing within brackets in Enclosures 1 and 2 are supplied by the translator for greater clarity but do not form part of the document itself.

Certified translations of the Iranian notes 9760 and 9762, and a certified copy of our note 282, will be submitted separately for the attention of the Office of the Legal Adviser, Treaty Affairs. All the enclosures are unclassified, but the Embassy should be informed before they are made public as all matters surrounding the issue of immunities are still very sensitive here. The Iranian Government is withholding public announcement of the waiver provisions until a later, more propitious time.

For the Ambassador:

Martin F. Herz
Counselor of Embassy
for Political Affairs

Enclosures:
No. 1 - Iranian Note 9760.
No. 2 - Iranian Note 9762.
No. 3 - American Note 282.

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OUTGOING AIRGRAM
CONFIDENTIAL

NO. A-313

TO : Department of State

POL-3
AMB
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SA
OR
USIS
ARMA
AIRA
ALUSNA
ARMISH-3
GENMISH
GULF
ADMIN
AID-3
CRU-2
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24/rp

FROM : Amembassy Tehran Date: Dec. 15, 1964

SUBJECT : The Exchange of Notes on the Status Bill - Transmission of Original and/or Certified Copies and Translations
REF : A-300, Dec. 12, 1964; Embtel 645

For Office of the Legal Advisor, Treaty Affairs

There are enclosed the following documents relative to the Status Bill:

1. Foreign Ministry Note 9760 - original plus two certified copies with translations;

2. Foreign Ministry Note 9762 - original plus two certified copies with translations; and

3. U. S. Embassy Note 282 - two certified copies.

As stated in the Embassy's A-300, these notes should not be published prior to coordination with the Embassy.

For the Ambassador:

Martin F. Herz
Counselor of Embassy
for Political Affairs

Enclosures:
As stated

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POL:MHielbeck:jcp 12/15/64

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TELEGRAM

Foreign Service of the United States of America

INCOMING AMERICAN EMBASSY TEHRAN

ACTION: POL-3

INFO: AMB DCM ECON SA OR USIS ARMA AIRA ALUSNA ARMISH-3 GENMISH GULF ADMIN CRU-2 CR

POUCH ISFAHAN KHORRAM MESHED TABRIZ

28/rp

CONFIDENTIAL
Classification

Control: 207

Recd: Dec. 15, 1964 0900

FROM: CINCSTRIKE USCINCMEAFSA

DTG: 142343Z December

ACTION: ARMISH MAAG,

INFO: AMEMBASSY TEHRAN

STRCC 13436.

Subject: Vienna Convention Immunities (U)

Reference: Tehran EMBTEL 643, 9 December 64, which advised of successful conclusion of immunities and exemptions negotiation.

1. (C) Successful conclusion of Immunities and Exemptions Negotiation is highly gratifying. I appreciate the many obstacles which had to be overcome and I realize that the results are attributable to outstanding Embassy-Armish-MAAG teamwork, diligence, patience and perseverance over many months.

2. (C) The Shah action is encourging the conclusion of a matter so highly sensitive in the Iranian political enviroment indicates his confidence in the U.S. Mission and attests to the excellent relations which the Country Team and the military advisors have established with him and the IIG.

3. (C) Please convey my personal congratulations to Ambassador Holmes for his achievement and extend my appreciation for a job well done to all who contributed to this effort.

4. (U) I desire that you inform all DOD personnel of their new privileges and immunities and impress upon them their attendant grave obligations to respect Iranian law and customs.

GP-3

0910/rp

FORM FS-501

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TELEGRAM

Foreign Service of the United States of America

INCOMING AMERICAN EMBASSY TEHRAN

ACTION POL-3

INFO AMB DCM ECON SA OR USIS AID/DIR CRU-2 CR

POUCH ISFAHAN MESHED TABRIZ

16/rr

CONFIDENTIAL
Classification

Control: 249

Recd: Dec 17, 1964 1100

FROM: KHORRAMSHAHR

NO: 16, December 16, 4 PM

Reliable source reports pro Khomeini Mullahs in Abadan stepping up anti-American campaign. Literature being given oil workers both on and off job. Criticism mainly against Majlis Status Bill.

Source reports two Abadan Mullahs Jami and Sanavadi attended conference pro Khomeini leaders December 7 to 13 in Qom. Soviet oil experts in Abadan December 3 and 4 visited Agha Abdul Rasul leading religious figure this area. Details to follow.

GP-3.

FELDT

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TELEGRAM Foreign Service of the United States of America

GOING Amembassy TEHRAN

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ARMISH-3
16/pl

Charge: CONFIDENTIAL (Classification) Control: 208

Date: Jan 18,1965 1245

ACTION: Secstate WASHINGTON 744

DOD WASHINGTON um

Deptel 574

Vienna Convention published in Official Gazette December 19 and separate law applying its immunities to members of Military Mission staff "in employ of GOI" published December 26. Iranian law provides for entrance into effect in Tehran ten days after promulgation (archaic provisions related to entrance into effect elsewhere in Iran on dates relative to distance from Tehran probably not applicable in modern day practice).

Embassy→MAAG proceeding to submit comprehensive list of names to be covered and working out with FonOff form and wording of identification card to be issued.

OP-3

HOLMES

SA: JAArmitage:vme
1/18/65

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CONFIDENTIAL

S/A

Nr 55334/33477/27
Dated 4 Feb. 1965

FROM : Ministry of Economy,
Administration General of Customs
Supervision Dept

MEMO FOR: Ministry of Foreign Affairs,
Protocol Section

1. Based on information received the legislative Act providing diplomatic immunity and exemptions for US military advisors has been ratified by both Houses.

2. At present, the properties of the subject advisors are released based on Note 1, Budgetary Act of 1337 (1958) approved in connection with customs exemptions.

3. If the Act referred to in Par 1 above has been finalized, the same formalities, applicable to foreign diplomatic mission, will be applied inconnection with the release of the properties of US Advisors.

4. It is requested that the result of actions taken and a copy of the pertinent Act be furnished to this Department.

Dir General, Customs,
Dr Hadi

DISTRIBUTION:

Min of Foreign Affairs, Pact & Treaty Dept
Min of War, Advisory Dept.

TRANSLATION SECTION,
ADMINISTRATIVE SERVICES UNIT.
M/M/AM.

CONFIDENTIAL

67

TELEGRAM

Foreign Service of the United States of America

OUTGOING

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ADMIN
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CR

25/pd

Charge:

UNCLASSIFIED
Classification

Control: 287

Date: Feb.24,1965
1330

ACTION: Secstate WASHINGTON 886

Request Dept inform us 1) whether sufficient number of nations (22) have deposited with UN instruments of ratification to bring Vienna Convention into effect and 2) what are prospects for Senate action on Convention.

RUSK

SA:JArmitage/ap

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Classification

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TELEGRAM

Foreign Service of the United States of America

INCOMING AMERICAN EMBASSY TEHRAN

ACTION:
SA-2

INFO:
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ALUSNA
ARMISH-3
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ADMIN
CRU-2
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UNCLASSIFIED
Classification

Control: 542

Rcvd: Feb 27, 1965
1130

FROM: DEPARTMENT

NO.: 706, February 26

EMBTEL 886

Vienna Diplomatic Relations Convention entered into force April 24, 1964. At present 36 countries are parties. Submitted US Senate May 14, 1963. No information when Senate action can be expected.

FYI Vienna Consular Relations Convention not in force. Five countries have deposited ratifications or acceded. Not yet submitted US Senate.

RUSK

25/mj

1205

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No. 406

The Embassy of the United States of America presents its compliments to the Imperial Ministry of Foreign Affairs and has the honor to communicate to the Ministry the following information relating to the immunities of foreign personnel in Iran and in the United States.

1. The understanding of the Embassy with regard to the immunities and exemptions of non-diplomatic American military and non-military personnel in Iran by agreement or arrangements between the United States and the Imperial Government of Iran is as follows:

(a) The Vienna Convention entered into force for Iran on February 2, 1965, thirty days after the deposit of the instruments of ratification, as provided for in Article 51 of the Convention. The Convention originally entered into force for signatory powers on April 24, 1964 when the first twenty-two countries had deposited their instruments of ratification. Thirty-six countries are now party to the Convention.

(b) The Convention provides to the administrative and technical staff of foreign missions the privileges and immunities specified in Articles 29 to 36; Article 31 provides "immunity from the criminal jurisdiction of the receiving state".

(c) By its note No. 9762 December 9, 1964 (18 Azar 1343) the Foreign Ministry applied the privileges and immunities of Articles 29 to 36 to "American military and non-military personnel who are in Iran by agreement or arrangements between the two governments and

who are presented to the Imperial Ministry of Foreign Affairs by the Embassy under the heading of Embassy Administrative and Technical Staff."

(d) The Foreign Ministry's note No. 9760 of December 9, 1964 (18 Azar 1343) notified the Embassy that the Majlis and the Senate had on or before October 13, 1964 (21 Mehr 1343) voted to extend these immunities and exemptions to the Chief and members of the staff of American Military Missions who are in the employ of the Imperial Government. This law removed any doubt that personnel of the military missions whose services are compensated by the Imperial Government would be covered by the Convention. Personnel not so compensated remain covered by the Foreign Ministry's note No. 9762.

(e) The fact that the United States Government has not yet ratified the Vienna Convention has no legal relevance in this connection. Article 47 of the Convention provides that "in the application of the provisions of the present Convention, the receiving state (in this case, Iran) shall not discriminate as between states." The qualification of this article, contained in paragraph 2(a) provides that discrimination shall not be regarded as taking place if the receiving state (Iran) applies any provision restrictively because of a restrictive application of that provision to its (Iran's) mission in the sending state (United States). This qualification is manifestly permissive and not mandatory, and the Foreign Ministry's notes 9760 and 9762 grant the immunities and exemptions of Article 37 without reservation, thereby conveying the intent of the Imperial Government not to invoke any restrictive application.

2. Although the issue of reciprocity is not here involved, the Embassy wishes to inform the Foreign Ministry that the United States Government does not apply restrictively the grant of

immunities. Foreign diplomatic personnel accredited to the United States and members of their suites notified to and received by the Department are immune from arrest or imprisonment, and their goods and chattels may not be distrained, seized, or attached. Any perso who sues out a process against such diplomatic officers or members of their suite, or against their goods and chattels, or who assault a diplomatic officer is liable to fine and imprisonment (22 United States Code 252-254).

With the exception of nationals of and permanent residents of the United States, the United States Government takes the position that the immunity of the Chief of the Diplomatic Mission extends to all members of the Mission, including the official staff who are not diplomatic officers.

The Embassy avails itself of the opportunity to renew to the Imperial Ministry the assurances of its highest consideration.

Embassy of the United States of America

Tehran, March 6, 1965

SA:JAArmitage:ap

Jurisdiction

سند شماره ۵۸

To: CRU

From: HMN

Particulars of Attached Note:

Note Number: 11/8798 SA

Date of Note: 3/6/65

Date Received: 3/9/65

From: Protocol Div. of F.O.

Enclosure of the Note: ---

General Subject:

The Protocol Division of the Imperial Ministry of Foreign Affairs presents its compliments to the diplomatic missions accredited to the Imperial Court, and has the honor to state:

As of March 5, 1965 the Imperial Government of Iran will observe the regulations and rules of the Vienna Agreement, in connection with Diplomatic Relations dated April 18, 1961, in its relations with the diplomatic missions of those countries which have approved this agreement by taking its article fifty one into consideration.

The Protocol Division avails itself of the opportunity to renew the assurances of its highest consideration.

S E A L

Embassy of the United States of America, Tehran

تشریفات

شماره ۸۷۹۸/ ۱۱

تاریخ ۱۲۴۳/۱۲/۱۵

وزارت امورخارجه

یادداشت

تشریفات وزارت امورخارجه شاهنشاهی بااظهارتعارفات خود بنمایندگیهای سیاسی خارجی مقیم دربارشاهنشاهی احتراماً اشعارمیدارد :

دولت شاهنشاهی ایران ازتاریخ چهاردهم اسفندماه ۱۳۴۳ برابر پنجم مارس ۱۹۶۵ مقررات وقواعد قرارداد وین راجع بروابط سیاسی مورخ ۱۸ آوریل ۱۹۶۱ رادرروابط خود بانمایندگیهای سیاسی کشورهائیکه این قرارداد راباتوجه بمادهپنجاه ویکم آن تصویب کرده اند رعایت خواهد نمود .

موقع رابرای تجدید احترام مغتنم میشمارد .

سفارتکبرای — تهران

from the desk of

JOHN A. ARMITAGE
Special Assistant to the Ambassador
for [illegible]

Amb saw

Date: 3 - 9

To: The Ambassador

Subject: Application of the Vienna Convention

The attached note - a circular note to all diplomatic missions - is ambiguous in its reference to Art. 51, the article on the application of the Convention without discrimination.

I suggest we ignore it for the timebeing and focus on our note to the For. Min. When you next see him, could you ask him if he reeeived and read our note, and, if so, has he now authorized the Pass port Office to document our personnel with a card indicating clearly they are not subject to arrest or detention.

The attached note does have some problems possibly for the Dean of the Corps - but they can be left to your successor, I would assume.

No. 418

The Embassy of the United States of America presents its compliments to the Imperial Ministry of Foreign Affairs and has the honor to inform the Imperial Ministry of Foreign Affairs that on March 3, 1965 in Kermanshah a motor vehicle driven on official duty by Charles L. Gray, Specialist Fourth Class, of ARMISH/MAAG struck Miss Iran Salimi. On March 11 Miss Salimi died from injuries sustained in this accident.

The Embassy wishes to express to the Ministry its deepest regret that this unfortunate accident has occurred.

Specialist Gray was notified to the Ministry as a member of the Embassy's administrative and technical staff by the Embassy's note No. 342 of January 23, 1965 in accordance with the Ministry's note No. 9762 of December 9, 1964. He, therefore, enjoys the privileges and immunities made applicable to such staff members by Article 37 of the Vienna Convention on Diplomatic Relations. The Ministry is requested to inform the appropriate Iranian authorities that Specialist Gray has this immunity and that his case is now under investigation by the American military authorities.

Although, under Article 31 of the Vienna Convention, Specialist Gray enjoys immunity from civil as well as criminal jurisdiction, the American military authorities are undertaking to effect an appropriate settlement of any civil claims arising from the accident with the immediate members of Miss Salimi's family.

The Embassy avails itself of the opportunity to renew to the Imperial Ministry the assurances of its highest consideration.

Embassy of the United States of America

Tehran, March 11, 1965

SA:JAARMITAGE:ap

American Embassy,
Tehran, Iran,
March 24, 1965.

OFFICIAL-INFORMAL

CONFIDENTIAL

Dear Frank:

As you may have noted elsewhere we have finally concluded a statu agreement with the Iranians. In essence, it applies the immunities and privileges of the Vienna Convention to military personal here, as members of the Ambassador's "administrative and technical staff." This was a very sensitive issue from the political point of view and our position here was probably bashed around a bit as a result of the public discussion of the negotiations. In the course of our talks with the Iranians, we assured them that we had not in the past and did not in the future intend to convene a military court in Iran. We have not done so in the past because by military regulations this would tend to classify our military establishment here as a base — a connotation which we assiduously avoid because of the Soviet-Iranian Treaty of 192 That treaty has been interpreted to commit Iran not to permit a foreig military base in the country. In any case, the Iranians have been and remain sensitive even to any hints about the exercise of foreign court jurisdiction here, because of the long and unhappy experience with "capitulations".

Why is all of this relevant to you? It is, because since the new agreement we have had a fatal accident here involving an enlisted man named Charles L. Gray, Specialist Fourth Class. He was judged sufficiently negligent in the accident to warrant a military trial. General Eckhardt has requested that he be tried in Turkey and Major Hart visited and spoke with General Herrick last week. Frankly, we

Frank E. Cash, Jr., Esquire,
First Secretary of Embassy,
American Embassy,
Ankara.

GROUP 4
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Declassified after 12 years.
CONFIDENTIAL

got the impression that General Herrick was reluctant to assent. As summary and special courts are held there rather routinely, we are perplexed as to why trying someone from ARMISH/MAAG here would present a particular problem. I am not asking you to take any initiative on this matter but wanted to inform you of the background so that you could help facilitate a favorable decision in the matter. If and when it is brought to the Embassy's attention, I would appreciate it greatly.

Our tour here is drawing to a close and we leave in June on transfer - via home leave, thank the Lord - to Moscow this fall. Fire horses always return to the barn. Best regards.

Most sincerely,

John A. Armitage
Special Assistant to the Ambassador

JAA:JAArmitage:ap

Copy to Major Hart 3/24

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TELEGRAM

Foreign Service of the United States of America

INCOMING AMERICAN EMBASSY TEHRAN

ACTION POL-3
INFO AMB DCM ECON SA OR USIS AID CRU-2 CR

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Classification

Control: 304

Rcvd: May 15,1965 0600

FROM: DEPARTMENT

NO: 1031, MAY 14

YOUR 1271

UNDER ARTICLE 51, VIENNA CONVENTION IN FORCE ONLY BETWEEN STATES WHICH HAVE DEPOSITED RATIFICATIONS OR ACCESSIONS.

IRAN DEPOSITED RATIFICATION FEB 3, 1965. CONVENTION NOT YET RATIFIED FOR US, BUT PENDING IN SENATE.

POUCH: MRSH KHRR ISFA TABR

ASSUME YOUR INQUIRY RELATES TO STATUS US MILITARY PERSONNEL. FACT THAT CONVENTION AS SUCH NOT RPT NOT IN FORCE BETWEEN US AND IRAN DOES NOT RIT NOT DIMINISH SEPARATE OBLIGATION UNDERSTAKEN BY IRAN IN NOTE NO 9762 OF DEC 9, 1964 (TRANSMITTED BY A-313 OF DEC 15, 1964) TO ACCORD ARTICLE 37(2) IMMUNITIES AND EXEMPTIONS TO US MILITARY AND NON-MILITARY PERSONNEL AS PROVIDED SAID NOTE. USG CONSIDERS THAT EMBASSY'S NOTES NO 423 OF MARCH 19, 1962 AND NO 299 OF DEC 13, 1963 AND MINISTRY'S REPLY OF DEC 9, 1964 CONSTITUTE BINDING AGREEMENT BETWEEN TWO GOVERNMENTS.
BALL

17/pd

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Pg. 1 4/3772
Rec'd 6/7/65

DEPARTMENT OF STATE
WASHINGTON

June 2, 1965.

OFFICIAL - INFORMAL

LIMITED OFFICIAL USE

Dear Jack:

I am pleased to have your letter of May 25 concerning the application of the Vienna Convention, and will attempt to clarify our views with respect to Articles 47 and 51.

While Article 47 is not as tightly written as it might have been and therefore I can see how you came to the conclusion that a ratifying or acceding state must apply the convention to all states with which it has relations, I do not believe that you would find support for that particular theory. Article 47 becomes operative only if the convention is in force between the states involved in a particular dispute in which the terms of the convention are invoked. It is a basic rule of international law that a treaty concerns the contracting states only. Neither rights nor duties, as a rule, arise under a treaty for third states which are not parties to the treaty.

I believe you may possibly have reached your conclusion on the basis of a recollection of a technical point which you may have known of previously. Under certain circumstances it is argued that even though all states are not parties to a particular international agreement, if a sufficient number have accepted a particular position on matters of international concern, the agreement reached represents a consensus as to what represents international law on the point involved. While it is possible to make use of such an argument in attempting to ascertain general rules of international

/law,

John A. Armitage, Esquire,
American Embassy,
Tehran.

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law, this approach is not available when seeking to enforce or claim a right under an agreement to which the state making the claim or against which a claim is asserted is not a party.

Accordingly, I believe that a proper interpretation of Article 47 would be to assume that the first paragraph should read, "in the application of the provisions of the present Convention, the receiving State shall not discriminate as between States /which are party to the Convention/". If this were not the case and your theory were applicable, I believe you would agree that Iran would be obliged not only to apply the Convention on behalf of the United States, even though it has not yet become a party to the Convention, but to all other nations even though they have not yet become a party to the Convention.

While Embtel 1271 did not indicate the context in which the interpretation of Article 51 was desired, we assume that your inquiry related to the problem of U.S. military personnel, and attempted to explain in Deptel 1031 why we believe that the exchanges of diplomatic notes established a legal obligation on the part of Iran to apply the provisions of the Vienna Convention to U.S. military personnel without regard to whether or not the United States was a party to the Convention. If you are having difficulty in persuading the Iranian authorities of the applicability of the Convention to U.S. military personnel, it would be helpful for us to know more specifically what the problem is and what position the Iranian authorities have taken. We believe we have a very sound legal position, but it is based upon the bilateral exchange of notes rather than upon an interpretation of the Vienna Convention itself.

I trust that the foregoing will be of some assistance to you, and if you want us to consider the matter further just let us know.

/I

I heard through John Guthrie of your assignment to Moscow, and am very pleased although I am sorry that you will be moving from a post in my area. I will look forward to seeing you while you are in Washington and hope that we can have a good talk together at that time.

With best personal regards,

Sincerely yours,

Donald A. Wehmeyer
Assistant Legal Adviser

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A-637
NO.

OUTGOING AIRGRAM
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TO: DEPARTMENT OF STATE

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FROM: Amembassy, TEHRAN

DATE: June 3,1965

SUBJECT: United States' Ratification of the Vienna Convention

REF. Embassy Telegram 404 October 14, 1964

As the Department is aware, the Government of Iran, after much urging, presented to the Majlis and the Senate the Vienna Convention on Diplomatic Relations and gained its ratification. The Government has also agreed in an exchange of notes to apply the article of the Convention relating to the "administrative and technical staff" of the Embassy to personnel attached to military agencies and to staff personnel of civilian agencies.

1/pd

However, there has been a subsequent reluctance on the part of the Ministry of Foreign Affairs to institute fully adequate procedures for effecting the privileges and immunities granted under the Conventi and, repeatedly in conversations, officials of the Ministry have cited as excuse or justification for the Ministry's dilatory and unhelpful attitude the fact that the United States has not yet ratified the Convention. The Embassy is confident that will be able to work out the necessary procedures with the Ministry, but cannot be sure that, under the stress of a difficult case or two, new problems would not arise.

It would be most helpful to the Mission if the United States Senate had ratified the Vienna Convention, and the Embassy urges the Department to take all appropriate steps to facilitate and expedite the ratification.

For the Ambassador:

John A. Armitage
Special Assistant to the Ambassador
for MSP

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SA:JArmitage:ep 6/3/65

DCM:SVRockwell

CLASSIFIED

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TELEGRAM

Foreign Service of the United States of America

INCOMING AMERICAN EMBASSY TEHRAN

LIMITED OFFICIAL USE

ACTION: ~~POL-3~~ SA

Classification

Control: 611

Recd: Sept. 17, 1965

0730

INFO:
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FM SECSTATE WASHDC
TO AMEMBASSY TEHRAN 335
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LIMITED OFFICIAL USE SEPT 16
DEPT A-126

POUCH:
MESH
ISFN
KHOR
TABR

ON SEPT 14 SENATE UNANIMOUSLY ADOPTED RESOLUTION ADVISING AND CONSENTING TO THE VIENNA CONVENTION DIPLOMATIC RELATIONS. HOWEVER, DEPT WILL RECOMMEND THAT PRESIDENT NOT RPT NOT RATIFY OR DEPOSIT INSTRUMENT OF RATIFICATION UNTIL SUCH TIME AS CONGRESS HAS CONSIDERED COMPLEMENTING LEGISLATION, PROBABLY NEXT SESSION.

18/aep RUSK

FORM FS-501

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Immunities

SECRET/noforn

Tehran, Iran

June 24, 1967

OFFICIAL-INFORMAL

Donald A. Wehmeyer, Esquire
Assistant Legal Adviser
L/NEA, Room 6247
Department of State
Washington, D. C. 20520

Dear Don:

I am sorry that circumstances have prevented a reply to your letter of May 23 before this. The truth is that the amount of research that had to be done plus the recent evacuations from Amman and Baghdad, which consumed most of the time and energy of the official community, all conspired against an earlier reply. However, I trust that the Arab-Israeli war and attendant events have succeeded in pushing your inquiry on the back burner and perhaps now the pressure for the information you desired is not as great. In any case, here is what we have been able to come up with in response to your queries.

First of all, the personnel of these various miscellaneous units (and many of them are extremely sensitive) without exception carry yellow identity cards issued by the Ministry of Foreign Affairs signifying that they have immunity. The names of individuals are submitted by Armish/Maag to the Consulate which, in turn, forwards them to the Foreign Office along with photographs and passport numbers and a statement that the individual is an employee of the United States Department of Defense. This system has been organized at a low level and is working most effectively. As far as civilian (DOD) personnel is concerned, our latest tally is 60. They, together with the 208 officers, 501 EM and 1360 dependents, total 2159 people with yellow cards.

Re your second query, as far as we are able to determine the GOI has not made public its note of December 9, 1964 extending immunities to "American military and non-military personnel." In Iran Foreign Office notes rarely, if ever, are made public and in this case there were very cogent reasons why the GOI chose not to do so.

With regard to your inquiry on the translation of Iranian Note 8800 of March 11, 1963 we regard the pros and cons of the meaning of the word "until" as basically academic. This note is, in effect superseded

by Foreff Notes 9760 and 9762 which we acknowledged in Note 282 of December 9, 1964 as being a "favorable and acceptable response to the Embassy's Note No. 423 of March 19, 1962." These three notes were transmitted to the Department in A-313 of December 15, 1964.

Since March 21, 1963 there has been no formal extension of the original agreements of 1943 and 1947 providing for a US military presence in Iran. There have been a number of reasons for this having to do mainly with political climate. For example, we did not formally extend the agreements in 1964 and 1965 because of the flareup over the immunities issue and because the Vienna Convention situation had not been clarified. We have not done so this year so far because of the issues raised by the Whiskey affair. Nevertheless, it is our considered opinion here that the agreements of 1943 and 1947 are still in force regardless of the lack of attendant formalities. Treaties are primarily consensual, i.e., they are in effect because the two contracting parties desire that they be in effect regardless of the lack of formalities. Our treaty with regard to Armish/Maag provides for termination in one of several ways, including withdrawal of the Mission by the U.S. It is significant that the U.S. has not undertaken any of these positive steps to disaffirm its position in this country. Furthermore, there has been a statement by the Government of Iran that it is extending the terms of the Agreement until March 21, 1968. Although there has been no formalization or written acceptance of a continuation of the agreement by the U.S., our continued presence here is itself constitutes an implied ratification, with the terms of the agreement remaining in force as they were originally written. Even if we assume, for the sake of argument, that the termination of the agreement was self-executory, it may be said to have been reinstated by the consent of the two parties involved.

As you know this process is known as redintegration and is usually invoked in cases where treaties have been cancelled through the outbreak of war and where parties wish to reinstate the acceptable provisions of the previous treaties. While this is not the case in point we believe the principal is applicable by analogy. You will note that the primary factor in both cases is the mutual consent of the contracting parties and not the formalization of the treaty itself. This is the Middle East, Don, and contracts do not mean the same thing here that they do in the West. A contract is regarded here by an Iranian as the best possible arrangement he can make at the time but should the circumstances change in the slightest it is open for

continuing renegotiation. The Iranian attitude is that had he known at the time that he signed the contract that circumstances would be likely to change to his detriment he never would have signed it in the first place. We carry on our activities here in the military sphere for the benefit of the Iranians with their consent and we are here by their tolerance. The day they decide they do not wish us to be here anymore, whether we have an agreement or not is going to have little bearing on matters.

I trust, Don, that the information supplied in this letter is responsive to your needs. If you have any more questions which you think we can answer profitably, please don't hesitate to call on us. Next time, unless there is another evacuation operation, I am sure we can respond more quickly. At the request of the Staff Judge Advocate of Armish/Maag I am sending a copy of this letter to the Office of the Judge Advocate General, Department of the Army, Washington.

With best regards.

Sincerely,

R. Clayton Mudd
Special Assistant to the Ambassador
for MAP Affairs

SA:RCMudd:tmb 6/24/67

Mr. Schott

CONFIDENTIAL

MEMORANDUM FOR THE RECORD

Subject: Immunities of American Military Personnel

On August 24, the day on which I left on my trip to Southeast Asia, I called Mr. Ezzedin Kazemi at the Foreign Ministry to pursue our earlier discussion on "ground rules" for the handling of cases involving the immunity of our military personnel under the 1964 Status Law. I called on him purposely at that time because I suspected that I would not have the leisure for a really thorough-going discussion when I returned from that trip. We had about an hour together, and while no agreement resulted I think we understood our respective positions better. Mr. Armitage and Mr. Schott will no doubt wish to pursue the matter further at a later time.

I started by saying that traffic cases do not really afford a test of the handling of the immunities. We are deeply appreciative for the general understanding shown by the authorities, and particularly for the assistance that Mr. Kazemi gave in the Dills case when the Public Prosecutor seemed to question whether Mrs. Dills had immunity. I said we should try to think of a really sticky case, so see how it could be handled. Let us assume, for instance, that an American sergeant is in love with a high-born Iranian lady, that her father refuses to give his permission to the marriage, and that in an argument the sergeant shoots and kills the prominent Iranian.

I said that this would come under the heading of a heinous crime, and we would certainly recommend that the United States should waive immunity; but in order to waive immunity one has to have it. Our authorities would no doubt be willing to cooperate with the Iranian authorities in questioning the hypothetical sergeant, and we would no doubt make him available for questioning by the Iranian magistrate -- but it would have to be clear that we were making him available, in other words that he belonged to us until we turned him over to them.

Kazemi said the hypothetical case was well chosen because if there is a murder and a public outcry, it is inconceivable that the Iranian authorities would not take the sergeant into their custody immediately. It would be important that he be in an Iranian jail pending his trial. I said we might agree to that, but the point was that the Iranian authorities cannot arrest and hold an American sergeant. It is contrary to our agreement on immunities in conformity with the Vienna Convention.

We again went over the history of the agreements between our two governments, and Kazemi for the first time said what had been implicit in his actions before -- that our exchange of notes of 196 "which we had to make because of instructions from on high" really was illegal in his opinion. The Foreign Ministry cannot accord immunities beyond what is authorized by the law; and the law, for reasons that neither of us could quite explain, happens to limit immunities to personnel "in the employ" of the Iranian Government. I tried to rehearse the situation that had led to this unfortunate wording, pointing out that the Foreign Ministry's implicit position had been that persons not "in the employ" just didn't need separate parliamentary authorization for their immunities, but Kazemi brushed this aside.

Actually, he said, he is basing himself not on the Vienna Convention when he talks with the Ministry of Justice, but on the traditional right of Foreign Ministries -- which existed long before there was a Vienna Convention -- to determine which members of foreign missions are entitled to diplomatic immunities. Fortunately, this right of the Foreign Ministry has never been contested by the Ministry of Justice. Only whether it can be stretched to cover all of ARMISH/MAAG and associated units has been questioned.

I said that in Thailand the entire U.S. military establishment of some 40,000 personnel is technically part of the American Embassy. Why could not a piece of paper be prepared, and agreed among the Ministries concerned, that in Iran all American personnel "who are in Iran in accordance with agreements and arrangements between the two Governments" are to be regarded as part of the Embassy? It seemed to me that if necessary my Ambassador might raise the matter at a high enough level so that this is decided once and for all. Kazemi thought there would be constitutional obstacles to this. Persons who come to Iran in connection with any foreign aid project require parliamentary approval of the program. There has never been such approval for the activities of ARMISH/MAAG.

Very well then, I said, why could not someone prepare a piece of paper to the effect that for the purposes of immunities, all American military personnel in Iran are to be regarded as being "in the employ" of the Iranian Government. We ourselves could not be a party to such a statement because of the Mansfield Amendment which precludes any American soldiers being in the employ of a foreign government, but there is nothing to prevent the Iranian

Government, perhaps at the initiative of the Ministry of War, to make such a determination. Kazemi seemed to like the idea.

The discussion, as noted above, was inconclusive. I was left with the impression that in any case that does not involve a public outcry, Kazemi can be counted upon to stand on the right of the Foreign Ministry to certify immunities. His position that we should not formalize this may be well taken. But in any really important case (and the Whipkey case was almost in that category), we clearly will have to go over Kazemi's head right from the beginning; and I still believe that going as high as possible will be essential.

If a case occurs in which there is a public outcry, we are still on very shaky ground as far as existing procedures are concerned. It seems to me that in view of the Shah's occasional remarks to the Ambassador that he would like to have more advisory personnel especially for his Air Force, we should get a clarification of the immunities question on the (internal Iranian) record well before a sticky case occurs. Otherwise we will be caught between diametrically opposite forces -- a desire in Washington to assert immunity (pending its waiver) and a desire in Tehran to assert instant jurisdiction.

Distribution: Charge, ARMISH/MAAG-Col. Taylor, POL, SA-Mr. Schott, Immunities File

Drafted by Mr. Hoeltz

Sept 1967

Immunities

CONFIDENTIAL

MEMORANDUM FOR THE RECORD

Subject: Immunities of American Military Personnel

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Distribution: Charge, ARMISH/MAAG-Col. Taylor, POL, SA-Mr. Schott, Immunities File

Amembassy TEHRAN

Memorandum of Conversation

Date: April 12, 1969 (noon)

SUBJECT: Status of Forces Agreement

PARTICIPANTS: Professor Rohollah Ramazani
Mr. John A. Armitage - Counselor of Embassy for Political Affairs

PLACE: The French Club

COPIES TO: AMB/DCM, POL/RF, POL/SF, CHRON, Mr. Schott (2), NEA/IRN

Professor Ramazani said the one thing affecting Iran-American relations on which Iranians had voluntarily expressed their views was the privileges enjoyed by Americans in Iran. Ramazani stated that the feeling against these immunities and privileges appeared to be deeply felt and resented. He explained that it was generally thought that all Americans in Iran had the immunities and that the phrase used to describe the situation was deprecatory in the extreme and reflected considerable bitterness even if it may have been inspired by America-phobes.

I explained that the Agreement of 1964 with the GOI gave Vienna Convention immunities to official military personnel as members of the Embassy staff but that private Americans were fully subject to Iranian law.

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POL:JAArmitage:gs
4/17/69

CHAPTER

II

DEPARTMENT OF STATE

Washington, D.C. 20520

CONFIDENTIAL

OFFICIAL-INFORMAL

September 22, 1969

The Honorable
Nicholas G. Thacher
Charge d'Affaires, a.i.
American Embassy
Tehran

Dear Nick:

Dave Bane has spoken to me recently about Ham Twitchell's request to CINCSTRIKE that he be authorized to convene general and special courts-martial in Iran in cases involving only military personnel for offenses not of a nature to cause "undue or exaggerated coverage" in the local press. Dave indicated that Armish/MAAG had discussed the matter with you and that you were inclined to go along on a case-by-case basis. CINCSTRIKE was a little more nervous and, I confess, so was I about okaying Ham's request until we had an opportunity to talk about it further -- the first occasion being CINCSTRIKE's visit to Iran in October. My first concern is one I am certain you share, that we would not want to undertake anything that might disturb our status bill. Could not unilateral action of the kind proposed raise serious questions in this respect? The second thing that gives me pause is whether this kind of action might be interpreted or construed as lending an appearance of extra territoriality to our presence in Iran that we would want to avoid and that the Iranians themselves would resent.

My timidity could well reflect old and not very reliable impressions of Iranian sensitivity on this subject. I would appreciate a word of reassurance.

Sincerely,

Jack C. Miklos

CONFIDENTIAL

CONFIDENTIAL

Tehran, Iran

September 26, 1969

OFFICIAL-INFORMAL

Jack C. Miklos, Esquire
Country Director for Iran
Bureau for Near Eastern and
South Asian Affairs
Department of State
Washington, D. C.

Dear Jack:

With regard to your letter of September 22, and CINCSTRIKE's misgivings with regard to Courts Martial in Iran, I think perhaps Dave Bane and his colleagues have not quite understood how we propose to handle the matter.

The Military is discovering increasing difficulties with regard to maintenance of discipline in Iran. They attribute this to some diminution in the quality of personnel being sent here and to increasing strictness in Judge Advocate procedures for protection of defendants. At the same time, there is a need for prompt judicial procedures to preserve good order in case of more or less minor infractions.

Accordingly, I agreed with Lt. Col. Hawley, current JAG here, and General Twitchell that if they feel it desirable to try a case in this country, they should bring the Embassy a careful statement of all aspects, including the possibility of publicity, the possible involvement of Iranians, as witnesses, etc., and that then we would consult with them on the feasibility of holding the trial in Iran. We are, of course, very much aware that there could be real political risk in any trial which involved more than a couple of Iranian witnesses or which might attract public attention. On the other hand, I did not wish to give a flat negative to the idea of holding any military judicial procedures in this country where they might

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be very largely in-house matters in which the Iranians would not be interested and which would have very little chance of attracting public notice. We are speaking, of course, only of trials of Americans for offenses that have primarily to do with US military discipline.

In sum we have given no blanket agreement to the conduct of courts martial in Iran, but have consented to review with ARMISH/MAAG each case carefully and individually to determine whether we could then risk allowing the trial to be undertaken here, rather than insisting that in every case the military go through the cumbersome and often justice-defeating measures required to conduct a trial in Germany, Turkey, or elsewhere.

I hope this explanation will clear up the matter but if it does not, please let us know any further thoughts or questions you may have.

Best regards.

Sincerely,

Nicholas G. Thacher

cc: General Twitchell
SA:EARowe

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Ambassador DATE: Dec. 15, 1969

FROM : DCM - Nicholas G. Thacher

SUBJECT: Military Courts Martial in Iran

Last summer General Twitchell came to me requesting concurrence in holding Courts Martial in Iran for offenses by U.S. military personnel under his command not involving Iranians in any way. I asked him if such trials held without the knowledge or consent of the Iranian Government would be valid in U.S. militarylaw. He said this point had been explored and his Judge Advocate advised him such proceedings would be valid. The General said he was anxious to have our permission to do this since, with some decline in the quality of ARMISH/MAAG military personnel, he would like to be able to expedite the course of justice. Where Courts Martial are transferred outside Iran for offenses committed here, various difficulties arise and often the miscreant is not brought to justice.

I told General Twitchell that we could not, of course, approve any proceedings which might be offensive to the Iranian Government or smack of "capitulations". However, the Embassy would be prepared to review each instance as it arose to determine the risk or the appropriateness of holding the Court Martial in Iran. Thus we took a strictly ad hoc approach and the General understood that we would not approve Courts Martial involving Iranians.

CINCSTRIKE was informed of how we intended to proceed. Dave Bane, the POLAD there, became quite concerned and wrote to Jack Miklos questioning my decision. Jack then wrote me and I replied (see letters attached) and have heard nothing more from the Department. When Bane came here with General Throckmorton he had dug up some reference in a WEEKA made in 1960 which he thought foreclosed us from permitting even the kind of "in-house" trials which General Twitchell and I had been discussing. I told Bane we would, however, look into this whole business once more and Twitchell promised to send another communication to CINCSTRIKE on the subject. Whatever the informal understanding mentioned in the WEEKA of December 1960 (copy attached), it has been superseded by our present Status of Forces understanding with the Iranians which was developed through an exchange of notes in 1963-64 (copies attached) approved by the Majlis. These notes make no mention of the location of trials, nor does the Vienna Convention to which they refer.

General Twitchell now wants to send what we hope will be a final communication on this subject to CINCSTRIKE, but since they have questioned

our position I believe it best we be able to write back saying that, if you agree, our position now has your approval.

General Twitchell now has before him just the kind of thing that I had in mind when I told him we might in some instances approve a Court Martial in this country. An enlisted man has refused to carry out an order of a NonCom and Court Martial is being considered. This is a strictly in-house ARMISH/MAAG military matter and I believe there is no practical reason why the trial, if conducted discreetly, should not be held in Iran. I do not believe either the Iranian military or civilian authorities would be in the least bit concerned with ARMISH/MAAG trying a case on Iranian soil which is strictly one of U.S. military discipline. In any case I think this is a political judgment which we can safely make as each instance arises.

ARMISH/MAAG is now in possession of written instructions from me, when I was Chargé, saying that no trials of any kind are to be held without careful consultation with the Embassy. In each case, of course, I would review the attendant circumstances carefully on the basis of the offense committed, the probable length and scope of the trial, possibilities of publicity, involvement of any Iranians, etc., and then provide you with a recommendation as to whether or not we should give permission for the trial to go ahead. In general, I expect we would be able to concur in the kind of strictly military offense listed above, but would have to request trial outside the country for any serious crimes against persons or property.

If you concur in the foregoing, I will prepare a detailed letter to Dave Bane (with copy to Miklos) explaining once again to him our position, informing him that it has your concurrence and that of General Twitchell and asking Dave to inform the appropriate interested parties at CINCSTRIKE.

CONFIDENTIAL NOFORN

OFFICE OF THE JUDGE ADVOCATE

AJA 10 January 1970

MEMORANDUM FOR: MG H. A. Twitchell
Chief, ARMISH MAAG

SUBJECT: Jurisdictional Agreements, US-GOI

You asked about jurisdictional disputes which might arise between the US and the GOI over the exercise of US court-martial jurisdiction in Iran.

I. JURISDICTIONAL DISPUTES

A. Types of Agreements

There are three general types of agreements which are concerned with the status of United States military personnel who are stationed in foreign countries. First, there are what may be called Status of Forces Agreements, examples of which are the NATO SOF Agreement and the Japanese Administrative Agreement; second, Mission Agreements such as those with Nicaragua and many other Latin American countries; and, third, Mutual Defense Assistance Agreements under which Military Assistance Advisory Groups (MAAG) operate.

With the exception of military attaches who enjoy full diplomatic immunity, US forces in West Berlinand Okinawa and ARMISH MAAG, Iran, the rights and obligations of all United States military personnel performing duty in foreign territory are reflected in one of these three types of agreements.

Generally, it may be said that those who perform duties contemplated by Mutual Defense Assistance Agreements enjoy more rights and privileges than are enjoyed by military personnel who perform duties under status of forces agreements and under mission agreements. This special status of the personnel of the various Military Assistance Advisory Groups (MAAG) is attributable to the fact that those groups operate in all except Iran, Saudi Arabia and Turkey as an integral part of the Embassy of the United States.

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ARJA (10 Jan 70)
MEMORANDUM FOR: MG H. A. Twitchell

B. Agreement in Iran

The GOI has unilaterally extended to the Chief and members of the military missions in Iran the privileges and immunities of t Vienna Convention. Essentially, this provides immunity for these individuals and members of their household from the criminal jurisdiction of Iran. In the exchange of notes between the Governments implementing the extension of immunity the United States agreed to give sympathetic consideration to requests for waiver of immunity in "...cases involving heinous crimes and other criminally reprehensible acts."

C. US Jurisdiction Over Offenses in Iran

The basic rule for national jurisdiction was set forth by the Supreme Court of the United States in the case of The Schooner Exchange v. McFaddon. 11 U.S. (7 Cranch) 116 (1812). There the Court said "The jurisdiction of a nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself.... All exceptions...must be traced up to the consent of the nation itself.... The consent may be either express or implied. ..." As pointed out in paragraph B, supra, the GOI extended the immunities and exemptions of the Vienna Convention to Chief and members of the staff of the United States Military Missions in Iran. Under paragraph 2 of Article 37 of the Convention, if the members so described are not nationals of or permanently resident in the receiving state they enjoy the privileges and immunities specified in Articles 29 to 35; except, that the immunity from civil and administrative jurisdiction specified at paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. Article 31 at paragraph 1 states that "A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State...". Paragraph 4 of Article 31 completes the cessation of jurisdiction in stating "...The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State." Accordingly, the GOI has expressly ceded territorial criminal jurisdiction and has provided for US retention of jurisdiction. That the GOI recognises this fact is evidenced by its requests, in serious cases where immunity has been asserted, that certain cases "...be referred to the competent US judicial authorities...." The US therefore has jurisdiction over offenses committed by its troops in Iran.

ARJA (10 Jan 70)
MEMORANDUM FOR: MG H. A. Twitchell

D. Court-Martial Jurisdiction

Generally speaking jurisdiction of courts-martial is concerned with "status" rather than territorial cognizance. The jurisdiction of a court-martial does not depend upon where the court sits. U.S. v Durant 73 BR 49 (1947); accord, Durant v Hiatt, 81 F. Supp. 948 (D.C. Ga 1948), aff'd, 177F. 2d 373 (5th Cir. 1948). A court-martial must, however, be convened by proper authority and the members must be competent under the law to act as members. Additionally, the court must have jurisdiction over the offense and over the person being tried.

E. Possible Jurisdictional Disputes

1. GOI Requests for Waiver - Requests for waiver of ceded jurisdiction is not strictly speaking a "jurisdictional dispute". It is a political question which, however, arises from time to time and so is worthy of consideration in this memorandum. Generally speaking disputes come about because of NATO-SOF type agreements which provide for concurrent jurisdiction. These disputes--as in the Girard case which arose in Japan--usually involve the question of interpretation of the facts under the agreement, i.e., under the facts of the case which country has primary jurisdiction. In Iran, however, the United States has exclusive jurisdiction in criminal cases by virtue of Iran's grant of immunity and cession of jurisdiction. See paragraph C, supra. Disputes should not arise in the usual way. The most likely possibility of a dispute arising in connection with cases in Iran is a case which the GOI considers a heinous one and requests waiver. This possibility exists regardless of action taken by the US to try the individual and is a political question which will not be greatly affected by decision of trial or locus of forum.

2. GOI Objections to US Exercise of Jurisdiction in Iran - It is a generally recognized principle of international law that no State may exercise its police powers in another State, even against its own subjects, without the consent of the other State because the jurisdiction to perform governmental acts within a States borders is its alone, unless and until it consents to the exercise of jurisdiction by a foreign State. This is the question addressed by us when convention of courts-martial was first considered. We queried the Embassy with respect to asking the GOI if they would object to the convention of courts-martial as a necessary concommitant to the enjoyment of immunity from Iranian criminal jurisdiction. They (Mr. Thacher, the then Charge d'Affairs a.i.) replied that it would be better to treat it as an assumed matter and go ahead with the convention of courts

in appropriate cases. I think the Embassy position is sound and is the best course of action to pursue. The basic premise of this course of action, however, is that the GOI has impliedly consented to the US exercising in Iran the jurisdiction it ceded to the U.S. I believe we can reasonably and believably argue that Iran's act of ceding to the U.S. jurisdiction and requesting on occasion that it exercise it implies that jurisdiction will be exercised in the normal way. In cases where the US has troops, more than token attache or small MAAG units, stationed in foreign countries the "normal" way of handling cases is for the US to exercise jurisdiction by courts-martial in the country where the offense was committed.

3. Jurisdictional Objections by Defendant at Trial - Assuming a validly appointed and constituted court, a defendant subject to the UCMJ, and an offense cognizable under the Code, a defendant tried by court-martial in Iran can make two jurisdictional objections to the court.

a. Jurisdiction Over the Offense - He can argue that the US does not have jurisdiction over an offense committed in Iran because Iran has exclusive jurisdiction within its borders. In my opinion the argument is not valid and will fail because the GOI has expressly ceded its territorial jurisdiction to the US.

b. Incompetence of a US Court in Iran - Under the assumptions of sub-paragraph a. supra, and assuming US jurisdiction of the offense as outlined in that sub-paragraph, a defendant can argue that the US may not exercise its governmental acts in Iran without the consent of the GOI. Three arguments can be made to sustain the court's jurisdiction. First, that the GOI has consented by implication as discussed in sub-paragraph 2, E. Supra. Second, that the objection is not properly raised by an individual but is only properly raised by the GOI and is a matter for diplomatic resolution. Third, it can be argued, and I think successfully, that the question of the locus of the court in these cases is procedural not jurisdictional, i.e., in view of the non-territorial nature of court-martial jurisdiction, jurisdiction exercised by a validly constituted court having jurisdiction over the person and the offense is not invalidated merely because the court was convened in the wrong place.

II. CONCLUSIONS

A. That the GOI has expressly ceded to the US its territorial jurisdiction for criminal offenses committed in Iran by members of the military missions to Iran through Article 31 of the Vienna Convention

B. That the US has jurisdiction over offenses cognizable under the UCMJ committed in Iran by members of the military missions to Iran.

C. That a duly appointed court-martial is competent to try offenses under the UCMJ committed in Iran by persons subject to the code regardless of the locus of trial.

D. That a request by the GOI for waiver of US jurisdiction in an appropriate case is a political question not affecting the jurisdiction of US courts.

E. That the GOI has impliedly consented to US exercise of its jurisdiction in Iran as a concomitant of the cessation of its criminal jurisdiction and its requests that the US exercise its jurisdiction.

F. That a defense challenge to the jurisdiction of a court convened to try an offense committed in Iran on the basis that Iran has exclusive jurisdiction over such offenses would fail for the reason stated in paragraph A, II, supra.

G. That a defense challenge to the competency of a court-martial convened to hear a case in Iran on the basis that the US cannot legally exercise its jurisdiction without the consent of the local government would fail because, in the alternative, Iran has impliedly consented to the US exercise of jurisdiction in Iran, the defendant has no standing to object, and the attack on the court's jurisdiction is procedural merely and does not go to the competency of the court and is not prejudicial to the accused.

II. RECOMMENDATION

That the US exercise its criminal jurisdiction in Iran in appropriate cases in the manner discussed with the Embassy.

(Signed) Richard S. Hawley

RICHARD S. HAWLEY
LTC, JAGC
Judge Advocate

HEADQUARTERS
UNITED STATES MILITARY MISSION WITH IRANIAN ARMY
AND
UNITED STATES MILITARY ASSISTANCE ADVISORY GROUP TO IRAN
APO NEW YORK 09205
OFFICE OF THE CHIEF

ARCG 18 January 1970

MEMORANDUM FOR: Honorable Nicholas G. Thacher
Deputy Chief of Mission
American Embassy

SUBJECT: Jurisdiction--US-GOI

1. The attached Memorandum of law is forwarded for your consideration. We have reached the following conclusions:

a. That the GOI has expressly ceded to the US its territorial jurisdiction for criminal offenses committed in Iran by members of the military missions to Iran through Article 31 of the Vienna Convention.

b. That the US has jurisdiction over offenses cognizable under the UCMJ committed in Iran by members of the military missions in Iran.

c. That a duly appointed court-martial is competent to try offenses under the UCMJ committed in Iran by persons subject to the code regardless of the locus of trial.

d. That a request by the GOI for waiver of US jurisdiction in an appropriate case is a political question not affecting the jurisdiction of US courts.

e. That the GOI has impliedly consented to US exercise of its jurisdiction in Iran as a concomitant of the cessation of its criminal jurisdiction and its requests that the US exercise its jurisdiction.

f. That a defense challenge to the jurisdiction of a court convened to try an offense committed in Iran on the basis that Iran has exclusive jurisdiction over such offenses would fail for the reason stated in paragraph a, above.

g. That a defense challenge to the competency of a court-martial convened to hear a case in Iran on the basis that the US cannot legally exercise its jurisdiction without the consent of the local government would fail because, in the alternative, Iran has impliedly consented to the US exercise of jurisdiction in Iran, the defendant has no standing to object, and the attack on the court's jurisdiction is procedural merely and does not go to the competency of the court and is not prejudicial to the accused.

" DOWNGRADED AT 3 YEAR INTERVALS
DECLASSIFIED AFTER 12 YEARS
DOD DIR 5200. 10"

ARCG (18 Jan 70)
MEMORANDUM FOR: Hon. Nicholas G. Thacher

2. If a defense counsel challenges the competency of the court for the reason discussed in sub-paragraph g., above, the Government would concede that there is no express permission and argue the objection. The Military Judge would probably sustain the courts competency and the issue would be preserved for the Convening Authorities' review and higher appeal if taken. The question would not go to the GOI unless the Military Judge, or an appeal, went against the Government. If that happens we will have to elect to go to trial with another Military Judge on a different case, go to the GOI for express permission to exercise our jurisdiction, or forget the whole project.

3. Accordingly, I recommend that we go ahead with our original plan and exercise our court-martial jurisdiction subject to the terms of our prior discussion.

Incl
as

H. A. TWITCHELL
Major General, USA
Chief, ARMISH MAAG

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Ambassador DATE: Feb. 26, 1970

FROM : DCM - Nicholas G. Thacher

SUBJECT: ARMISH/MAAG Request to be Permitted to hold Low Level Courts-Martial in Iran

You will recall that a couple of months ago I submitted to you a memorandum reciting ARMISH/MAAG's request to be permitted to hold low level courts-martial in Iran (memo attached). Before your arrival in Iran I had indicated to ARMISH/MAAG I thought that the Embassy might review each individual court-martial case as it arose and decide with ARMISH/MAAG whether or not it would be appropriate to permit a trial in Iran. Our judgment would be affected by the type of crime, whether or not Iranians were in any way involved, the chances of there being any publicity. It seemed as a practical matter that the Iranians would have very little objection to courts being conducted which were little more than disciplinary procedures and which had to do only with internal military infractions, minor thefts, etc.

General Twitchell was anxious to do this since he is having increasing minor disciplinary problems, and without our concurrence in conduct of trials here he would have to carry out the courts-martial in Germany where defense counsel can effectively delay action by asking for travel to Germany of a large number of witnesses from Iran. General Twitchell assured me at the outset that his Judge Advocate had investigated the question of jurisdiction and was convinced that proceedings held in Iran would be legal.

However, when I discussed this with you, you had considerable misgivings about the latter point and asked as to whether we might not check further the whole question of jurisdiction, considering perhaps the desirability of raising the matter with the Iranian Government at a high level to get some sort of informal concurrence in our conduct of courts in this country.

Col. Hawley, the ARMISH/MAAG JAG, undertook then a careful study of the jurisdiction problem and has drawn up the attached memos forwarded to us by General Twitchell. The memo is defective in several respects as it does not deal with cases or crimes of offenses not mentioned in the SOFA What, in effect, these memos boil down to is that the Iranians, through the exchange of notes with us, have extended to the military missions in Iran the privileges and immunities of the Vienna Convention. In essence, therefore, ARMISH/MAAG personnel are given immunity from Iranian courts.* However, paragraph 4 of Article 31 of the Vienna Convention indicates that one enjoying immunities as a "diplomatic

* except from civil and administrative jurisdiction for acts performed outside the course of their duties.

agent" from jurisdiction of the receiving state is not exempt from jurisdiction of the sending state. This can be read as indicating that the U.S. retains jurisdiction over those for whom Iran has waived it.

We have a SOFA (STATUS of Forces Agreement) with Germany, NATO countries, Japan, Philippines etc

At the same time, it is obvious too that the jurisdictional position of possible U.S. military courts in Iran is not as strong as it is elsewhere. In Germany, for example, our agreements with the German Government specifically bestow on U.S. military courts jurisdiction to handle a wide range of cases. (U.S. military cases are also tried in Germany because there are located there full instrumentalities of the U.S. military legal establishment..)

In Hawley's memorandum he discusses in some detail how he would meet possible challenges by a defendant to a military courts jurisdiction. We cannot, of course, be sure what an aggressive defense counsel might do in challenging jurisdiction.

With regard to the possibility of getting some COI clearance for conduct of courts-martial in this country, I have considerable misgivings. Three years ago I spent many, many hours trying to disengage Sgt. and Mrs. Whipkey from their involvement with a murder case here (an American woman shot her American husband). We allowed the Whipkeys to give a good deal of testimony, but then we got wind of the fact that the investigating magistrate thought he might try to expand the charges to involve the Whipkeys in the crime. The political sensitivity of the whole immunities business emerged very clearly. Your predecessor brought heavy pressure to bear on the Prime Minister which was finally effective in extracting from him a commitment that the Whipkeys were questioned one more time they might then be permitted to depart the country. Yet our immunities clause works very well with regard to auto accident cases where we pay quick compensation if the American serviceman is at fault and he is allowed generally to leave the country at once. I am loathe to raise any aspect of immunities with anyone. The Shah would have to decide and in fact he would have to impose our view on his government if we wanted any further formal or even informal written assurance.

On the other hand, looking at the matter in a practical fashion, I do not think the Iranians would be particularly disturbed if we were to conduct summary or special courts quietly within our own establishment for offenses having nothing to do with Iranian persons, property or law. The main thing would be not to formally confront them with knowledge of such proceedings. They believe in pretty iron-handed discipline in their own forces and would understand our desire to maintain similarly firm procedures in ours.

But as a practical matter I continue to believe the risk is not too great. For example, there is one case now which General Twitchell would like to try in Iran. A sergeant has stolen $120 from the movie

fund. He has been in dire financial straits with various family problems, and ARMISH/MAAG is inclined towards leniency. No Iranian money, personnel or law is involved. Some three or four American witnesses would be called and the whole special court would take about two to three hours. A judge and one or two assistants would come down on the next MAC flight from Germany, try the case and fly back in a day or so. If this man's counsel were to challenge jurisdiction of the court at the outset or somehow threaten a big fuss on the jurisdictional basis, the court could always shut him up by taking him to Germany, though no doubt he would be made aware that a court far away from his station might be less inclined to take extenuating circumstances into account.

Reference of the cases to us would, of course, give us the right to turn down any ARMISH/MAAG request and insist that trial be carried out in Germany, if we have any doubts whatsoever as to possible repercussions.

On balance, the risk involved seems reasonable enough to me to give our approval to holding of trials of relatively minor offenses by special courts convened by ARMISH/MAAG in Iran with prior approval in each case by the Embassy.

Concur

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

CONFIDENTIAL

TO : The Ambassador

DATE: March 10, 1970

FROM : The DCM - Nicholas G. Thacher NGT

SUBJECT: Embassy Review of Proposed ARMISH/MAAG Courts-Martial in Iran

If you concur I will ask the Political Counselor to assume initial responsibility for giving Embassy concurrence to ARMISH/MAAG conduct of courts-martial in Iran.

We will ask Chief ARMISH/MAAG General Twitchell to give us a memorandum on the nature of the court to be held in order that in giving our concurrence the following aspects may be considered:

1. The nature of the offense.
2. The extent to which, if at all, Iranian property, personnel, or laws are involved.
3. Any possible jurisdictional problems which the defendant might be expected to raise and the consequences of his raising them.
4. Whether or not there seems risk of any publicity with regard to the case.

Fine

The Political Counselor will examine the case and submit a recommendation to you, through me, as to Embassy views to be given ARMISH/MAAG.

Approved OK

Concurrences:

ARMISH/MAAG:General Twitchell
POL:DRToussaint

GROUP 3
Downgraded at 12-year intervals,
not automatically declassified.

DCM:NGThacher:gs

CONFIDENTIAL

AHJA 28 March 1970

SUBJECT: Military Justice--Convening of Courts-Martial in Iran (C)

Commander in Chief
United States Strike Command
MacDill Air Force Base, Florida 33608

1. (U) Reference my letter of 2 August 1969, subject as above.

2. (C) On 10 March 1970 Ambassador MacArthur concurred in our request to convene courts-martial in Iran. He agreed to the convention of Special Courts-Martial after case by case coordination with the Embassy on the question of advisability of convening the court in Iran.

3. (C) My request of 2 August, referenced above, was for your approval in convening Special Courts and in allowing General Courts to be convened in Iran in appropriate cases. As noted above, Ambassador MacArthur's concurrence extends only to the convention of Special Courts. He has not agreed to the convention of General Courts because he feels the likelihood of adverse publicity and other trial difficulties are greater in those cases. In the event a case arises which seems appropriate for local trial by General Courts-Martial and which does not appear to involve risk of adverse publicity, he has no objection to my raising the question of expanding his concurrence.

4. (C) Accordingly, it is requested that you approve our submission of 2 August to convene Special Courts-Martial in Iran. It is further requested that authority be granted this headquarters to permit General Courts-Martial Convening Authorities having jurisdiction in Iran to convene General Courts-Martial in Iran if the Ambassador approves the convention of such courts on our further application. Your approval of General Court convention at this time will obviate

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AHJA 28 March 1970
SUBJECT: Military Justice--Convening of Courts-Martial in Iran (C)

the necessity for our requesting that authority in the future if the need should arise.

H. A. TWITCHELL
Major General, USA
Chief, ARMISH-MAAG

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POL

LIMITED OFFICIAL USE

Memorandum for the Record

October 30, 1971

SUBJECT: Procedure for Taking Affidavits Used at Armish/Maag Courts Martial

DISTRIBUTION: Charge
POL/M
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Armish/Maag (2) Col Rosenbaum;Maj McGowan
NEA/IRN

On October 25, during a meeting with Mr. Reza Hashemain (Acting Director of American Affairs Division), I went over slowly and deliberately all the points made in the attached paper. (I did not leave a copy of the paper, feeling it best not to have any written record on a subject which GOI had previously asked, in effect, not to be officially informed about).

Mr. Hashemian asked many questions and had me repeat or rephrase many points. His principal concern, which he expressed repeatedly, was to know what the Embassy wanted, e.g. Did we want the Government of Iran to approve the Armish/Maag procedure for taking affidavits? Or did we want the Government of Iran to order Iranian citizens to take part in such proceedings?

I sought to emphasize that the Embassy was not asking for any action by the Foreign Ministry or the Government of Iran. Our sole purpose was to convey information -- to let the Foreign Ministry have fuller information than we had given to Mr. Goodarzi in early July about the quasi-judicial procedures used in the taking of affidavits from Iranian witnesses.

Note: I am frankly not confident that Mr. Hashemian understood either the details of the procedures used or the reason that we had brought this information to his attention.

Attachment:
As stated

POL:DRToussaint:paz

LIMITED OFFICIAL USE

1. US-Iran bilateral agreements exempt American personnel of the US Military Advisory Mission in Iran from the criminal jurisdiction of Iranian Courts. Personnel who commit violations of US military regulations or Iranian law are punished by administrative sanctions or, where called for, by Courts Martial.

2. Traditionally, these Courts Martial have been held outside of Iran. Because of the administrative problems of holding trials far removed from the scene of the wrongdoing, which makes out-of-country prosecution difficult, if not impossible, it was recently decided to hold some Courts Martial in Iran in order to improve enforcement of discipline among US military personnel here.

3. In July of 1971, before holding Courts Martial in-country , we informed the Foreign Ministry (Mr. Mohsen Gudarzi, Chief Fourth Political Division) of these plans. We were informed that the Ministry had no objection to in-country Courts Martial so long as they do not come to the official attention of the Government of Iran. We were also advised that, while every cooperation would be given in obtaining evidence, supplying documents and taking affidavits, it would not be possible for Iranian citizens to participate in courts martial proceedings. We were informed that there was no objection to Iranian citizens participating in courts martial outside of Iran provided the proceedings do not come to the official attention of the GOI. Our Courts Martial procedures conform to the wishes of the Government of Iran and will continue to do so.

4. We wish to point out, however, that US and Iranian practices vary in one respect which may need clarification. Under Iranian practice, an affidavit can be prepared simply before a notary public; under US judicial practice, in order to obtain affidavits of Iranian witnesses (to be used in courts martial in lieu of the witness himself), it is necessary to hold a deposition hearing in the presence of the accused where the witness can be asked questions by the prosecuting attorney and the defense attorney. Several such hearings have been held by the US military mission. They take place in an informal setting where the witness is merely asked questions by the two attorneys and has answers recorded on a tape. The tape is later transcribed for use in the court martial.

5. If we are to be able to deal effectively with US personnel for wrongdoing involving Iranians, it is necessary that the testimony of Iranian witnesses be available at the court martial trial, and deposition hearings must take place to authenticate their testimony for use at such trials.

Privileges and Immunities for American Technicians Assisting in Modernization Program of Iranian Armed Forces

Agreement effected by exchange of notes Signed at Tehran May 24 and 30, 1973; Entered into force May 30, 1973.

The American Ambassador to the Iranian Minister for Foreign Affairs

No. 363 TEHRAN, *May 24, 1973*

EXCELLENCY:

I have the honor to announce that the first contingent of American military and non-military technicians requested by your Government to assist in the modernization program of the Imperial Iranian Armed Forces has arrived in Iran. During recent weeks there have been discussions between representatives of the Ministry of War of the Imperial Government of Iran and the staff of this Mission concerning the detailed arrangements under which the technicians are to be assigned to Iran. It is the understanding of my Government that, in accordance with Iranian law and agreements in force between the Government of Iran and the Government of the United States, these personnel will be accorded the privileges and immunities specified in the Note of the Imperial Ministry of Foreign Affairs No. 9762 of December 9, 1964, and the Note of this Embassy No. 282 of the same date.[1]

I would appreciate your confirmation that this is also the understanding of the Imperial Government of Iran.

Please accept, Excellency, the assurances of my highest consideration.

RICHARD HELMS

His Excellency
ABBAS-ALI KHALATBARI,
Minister for Foreign Affairs,
Tehran.

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[1] TIAS 6594; 19 UST 7535.

43-552 O—74 (1)

The Iranian Minister for Foreign Affairs to the American Ambassador

وزارت امورخارجه

اداره ـــــ حقوقی
شماره ـــــ ۱۱۶۸/۱۸
تاریخ ـــــ ۱۳۵۲/۳/۱۸
پیوست ـــــ

آقای ســـفیر

افتخار دارم وصول نامه شماره ۳۶۳ مورخ ۲۴ مه ۱۹۷۳ شما را اعلام و تأیید نمایم کارشناسان نظامی و غیر نظامی آمریکائی مـــورد تقاضا برای کمك به مدرنیزه نمودن نیروهای مسلح شاهنشاهی ایران ـ از مزایا و مصونیتهای مندرج در یادداشت شماره ۹۷۶۲ مـــورخ ۹ دسامبر ۱۹۶۴ این وزارت و یادداشت شماره ۲۸۲ همان تاریـــخ سفارت امریکا ـ بهره مند خواهند بود .

با تجدید احترامات

وزیرامورخارجه ـ عباسعلی خلعت بری

جناب آقای ریچارد هلمـز
سفیر ممالك متحده آمریکا ـ تهران

TRANSLATION

Ministry of Foreign Affairs

Legal Division
No 18/1968

Date: 3/8/1352
(May 30, 1973)

Excellency:

I have the honor to acknowledge receipt of your note No. 363, dated May 24, 1973, announcing the arrival of the first contingent of American military and non-military technicians to assist in the modernization program of the Iranian Armed Forces. These personnel will be accorded the privileges and immunities specified in the Ministry's note No. 9762 of December 9, 1964 and the American Embassy's note No. 282 of the same date.

Please accept, Excellency, the assurances of my highest consideration.

For the Minister of Foreign Affairs, Abbas-Ali Khalatbari

[Signature]

His Excellency Richard Helms
Ambassador of the United States of America
Tehran

U.S. GOVERNMENT PRINTING OFFICE:1975 O—43-552

Circulate:
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SAJA 26 September 1973

MEMORANDUM FOR: MR. SOHRAB, CHIEF, PASSPORT SECTION, OFFICE OF THE ADJUTANT, USEUCOM SUPPORT ACTIVITY

SUBJECT: Immunity Cards for Persons Without Official Passports

1. It is my understanding that recently the Passport Section has advised certain individuals who did not possess official passports that they were not eligible to receive immunity cards from the Ministry of Foreign Affairs. I am not aware whether in every case this advice has been based on specific information provided by an officer of the Ministry of Foreign Affairs or whether it has been based on a general interpretation of the law in this area. The purpose of this memorandum is to clarify the legal situation and to request that all interested parties proceed in a manner which will encourage the Ministry of Foreign Affairs to act in accordance with that law.

2. Under an exchange of notes of 1964 on the subject of immunities, the Government of Iran agreed to accord immunity under the Vienna Convention of 1961 to all "American military and non-military personnel who are in Iran under agreements or arrangements made between the two Governments and who are presented to the Imperial Ministry of Foreign Affairs by the Embassy." Whether particular individuals involved carry official passports or ordinary passports is a matter which is not properly relevant so far as the agreement is concerned. There are a variety of reasons, some of which are entirely procedural, which account for the fact that some official Americans and/or their dependents come into Iran with regular passports. There is a relatively large group in this category because they are dependents of military personnel who are entitled under U. S. regulations to transportation of their dependents at government expense.

3. It is evident that the language of the exchange of notes on this subject may not directly apply to nationals of countries other than the United States. Recent experience, however, indicates that the Ministry of Foreign Affairs is willing to issue immunity cards to persons who do not carry U. S. passports provided that they are presented by the U. S. Embassy as dependents of members of the official U. S. community. In my opinion, we should continue to

present the names of such individuals to the Ministry. As to those cases where the military employee is not a citizen of the United States, we have no recent experience. However, in appropriate instances, such as one involving an alien who is serving in the U. S. Armed Forces, we should request that an immunity card be issued.

4. With respect to American military members serving in Iran and those dependents who carry ordinary passports, there is no legal requirement that we treat them any differently in connection with requests for immunity cards than we treat those carrying official passports. The names of those individuals who are serving with the military in Iran and their dependents should be presented to the Foreign Ministry on a routine basis for the issuance of immunity cards.

5. Based on the results of a meeting of last June held at the Foreign Ministry with Mr. Precht, Mr. Gross and Miss Render of the Embassy staff in attendance, it appears that the Foreign Ministry will probably be willing to recognize the principles expressed above. In the event resistance is encountered, a further meeting at the Foreign Ministry can be arranged with the Passport Division and/or a representative of the Legal and Treaty Affairs Section.

HAROLD S. NATHAN
CPT, USA/JAGC
Staff Judge Advocate

CF: Mr. Precht, U. S. Embassy
Mr. Gross, U. S. Embassy
Miss Render, U. S. Embassy
LTC Spaulding, MAC
COL Crawford, Commander, ESA
CPT Bartels, Ofc of Adjutant, ESA

SAJA 16 December 1973

MEMORANDUM FOR RECORD

SUBJECT: Official Immunity Cards and Exit and Re-entry Visas

1. On 15 December 1973, I met with Mr. Gross, U. S. Consul General, Miss Render and Mr. Sohrab at the U. S. Consulate to discuss certain problems which have arisen in the obtaining of immunity cards for some DOD personnel and dependents. It appeared that the problem was now confined to those cases of DOD personnel who arrive for duty in Iran with regular passports. The Foreign Ministry Passport Office has been willing to register these passports but has declined to issue official immunity cards. I explained that by virtue of the 1964 exchange of notes, those personnel who are certified by the U. S. Embassy as being on official duty with the mission were entitled to the privileges evidenced by an official immunity card irrespective of the type of passport which they carry. It was decided that the Consulate would ask Washington about their practice with respect to Iranian employees of official missions in the United States who arrive in the United States with regular passports. When we hear from Washington concerning U. S. practice, a meeting with appropriate offices of the Foreign Ministry will be arranged by the U. S. Consulate to discuss this matter further.

2. The group also discussed the problem presented by the numerous requests for exit visas which were presented to passport officials on very short notice. Mr. Sohrab pointed out that frequently he had to disturb officials of the Foreign Ministry in the middle of the night in order to obtain an exit visa. Although the Foreign Ministry has been very cooperative in this connection, the group recognized that we were using-up substantial credit with these midnight actions. Miss Render urged the military to do everything possible to minimize the instances of inconvenience by putting out the word that our Passport Office must be notified of an intended departure as soon as possible. The group agreed that, in the long run, the best solution to this problem would be to pursuade the Foreign Ministry to issue multiple re-entry and exit visas good for one year to all members of the official mission. It was pointed out that those enjoying diplomatic status are issued such visas. It was agreed that we would raise the question of multiple re-entry and exit visas at the forthcoming meeting with representatives of the Foreign Ministry.

CF: Miss Render

3. In preparation for the anticipated meeting with Foreign Ministry officials, the Passport Office should prepare some statistics on the number of persons arriving for duty in Iran with regular passports and the number of exit and re-entry visas which the office requests in an average month.

HAROLD S. NATHAN
Major, USA/JAGC
Staff Judge Advocate

cc: CPT Bartels
LTC England
Mr. Precht
Miss Render

CHAPTER III

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IRAN ABOLISHES IMMUNITY FOR U.S. MILITARY ADVISERS

LD131858 REF NC131658 (PARIS AFP ENGLISH 131624--IRAN RESCINDS LAW ON DIPLOMATIC IMMUNITY FOR U.S. MILITARY ADVISERS)

TEHRAN DOMESTIC SERVICE IN PERSIAN 1630 GMT 13 MAY 79 LD

((TEXT)) THE FOREIGN MINISTRY OF THE ISLAMIC REPUBLIC OF IRAN TODAY ANNOUNCED THAT THE CAPITULATIONS LAW HAS BEEN RESCINDED. THE TEXT OF THE FOREIGN MINISTRY'S STATEMENT IS AS FOLLOWS:

ON THE PROPOSAL OF THE CABINET COUNCIL OF THE PROVISIONAL ISLAMIC REPUBLIC GOVERNMENT AND APPROVAL OF THE ISLAMIC REVOLUTION COUNCIL, THE LAW RATIFIED ON 13 OCTOBER 1964 PERMITTING AMERICAN MILITARY ADVISERS IN IRAN TO BENEFIT BY IMMUNITIES AND CONCESSIONS (?OF THE) VIENNA AGREEMENT HAS BEEN ABOLISHED AS OF 13 MAY 1979. 131630 SHANK/MC 13/1905Z MAY
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IRAN RESCINDS LAW ON DIPLOMATIC IMMUNITY FOR U.S. MILITARY ADVISERS
NC131638
PARIS AFP IN ENGLISH 1624 GMT 13 MAY 79 NC
((TEXT)) TEHRAN, MAY 13 (AFP)--THE 1964 LAW EXTENDING DIPLOMATIC IMMUNITY TO UNITED STATES MILITARY COUNSELLORS IN IRAN WAS TODAY RESCINDED, THE IRANIAN NEWS AGENCY REPORTED.

THE LAW, WHICH COVERED U.S. MILITARY ADVISORS BY VARIOUS DIPLOMATIC EXEMPTIONS AS WELL AS FULL IMMUNITY FROM TRIAL AND PROSECUTION, WAS RESCINDED ON THE ORDER OF THE PROVISIONAL GOVERNMENT WITH THE APPROVAL OF THE COUNCIL FOR THE REVOLUTION, THE AGENCY SAID. 131624/CALDWELL/CM 13/1642Z MAY
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SUBJECT: DIPLOMATIC IMMUNITY

1. NEWS RELEASE BY TEHRAN RADIO/NEWSPAPER MORNING OF 14 MAY 79 ANNOUNCED THAT THE 1964 IRANIAN CAPITULATION LAW EXTENDING DIPLOMATIC IMMUNITY TO UNITED STATES MILITARY ADVISORS IN IRAN WAS RECINDED EFFECTIVE 13 MAY 79. TEXT OF THE FOREIGN MINISTRY'S STATEMENT FOLLOWS:

QUOTE: ON THE PROPOSAL OF THE CABINET COUNCIL OF THE PROVISIONAL ISLAMIC REPUBLIC GOVERNMENT AND APPROVAL OF THE ISLAMIC REVOLUTION COUNCIL, THE LAW RATIFIED 13 OCTOBER 1964 PERMITTING AMERICAN MILITARY ADVISORS IN IRAN TO BENEFIT BY IMMUNITIES AND CONCESSIONS OF THE VIENNA AGREEMENT HAS BEEN ABOLISHED AS OF 13 MAY 1979. UNQUOTE

2. DUE TO DESTRUCTION OF RECORDS HERE DURING REVOLUTION, UNSURE THAT COPY OF 1964 LAW STILL ON HAND. LOCAL RECORDS SEARCH UNDERWAY.

3. REQUEST THAT CARMISH MAAG REAR ELEMENT COORDINATE AMONG

UNCLASSIFIED

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CONFIDENTIAL 2

ADDRESSEES TO LOCATE LAW. FURTHER REQUEST THAT THIS HQ BE ADVISED ASAP AS TO LEGAL STATUS OF U.S. MILITARY REMAINING IN IRAN.

WARNER##

CONFIDENTIAL

EMBASSY OF THE
UNITED STATES OF AMERICA
TEHRAN, IRAN

MAY 14 1979

COL Kamkar
Deputy Minister of National Defense
for Armament

1. As you know, the Foreign Ministry yesterday abolished the diplomatic immunity privileges given to the American Military Advisors under the Vienna Agreements.

2. Currently those few (31 military and 3 civilians) United States Military remaining in country are driving their own vehicles for transportation. As you can realize, this is a potentially dangerous situation if they have an accident.

3. In order to avoid a U.S. incident in Iran, request 15 drivers from Major Moshiri's Motor Pool be provided on a daily basis. United States Embassy can furnish the necessary automobiles or you could provide them should you so desire.

4. Please have Major Moshiri contact me at 824001, ext 1289 on receipt of this letter.

KEITH A. BARLOW
COL, USAF
U.S. Defense Representatives - Iran

تاریخ ۱۳۵۸/۲/۲۴

از سفارت آمریکا (مستشاری نظامی)
به معاونت تسلیحاتی وزارت دفاع ملی ــ سرکار سرهنگ کامکار

۱ــ همانطوریکه اطلاع دارید روز گذشته وزارت امور خارجه دولت جمهوری ایران قانون کاپیتالاسیون را که شامل حال مستشاران نظامی آمریکا نیز میگردید، لغو نمود .

۲ــ در حال حاضر از مستشاران باقی مانده در ایران فقط ۳۱ نفر نظامی و سه نفر غیر نظامی برای رفت و برگشت به محل کار خود اتومبیلهای شخصی خود را هدایت می نمایند .
بطوریکه تصدیق می نمائید با توجه به اوضاع و احوال کنونی ایران چنانچه برای مستشاران مزبور حادثه رانندگی اتفاق بیفتد موقعیت بسیار خطرناکی برای آنان متصور است .

۳ــ بمنظور جلوگیری از هر گونه حادثه ناگوار در ایران، خواهشمند است دستور فرمائید سرکار سرگرد مشیری فرمانده موتور پول همه روزه تعداد ۱۵ نفر راننده بطور تمام وقت در اختیار این قسمت قرار دهند . اتومبیلهای مورد نیاز را میتوان از اتومبیلهای سفارت آمریکا و یا اتومبیلهای موجود در فرماندهی موتور پول تامین نمود .

۴ــ خواهشمند است دستور فرمائید سرکار سرگرد مشیری بمحض دریافت این نامه با شماره داخلی ۱۲۸۹ با اینجانب تماس حاصل نمایند .

کیث ا . بارلو سرهنگ ارتش ایالات متحده

CHG
POL
MAAG
ADM
CHRON

NNNNVV ESA317BRA084
OO RUQMHR
DE RUEHC 4099 1360301
ZNY CCCCC ZZH
O 160259Z MAY 79
FM SECSTATE WASHDC
TO RUQMHR/AMEMBASSY TEHRAN IMMEDIATE 2393
INFO RUEADWW/ WHITE HOUSE IMMEDIATE 2065
BT
C O N F I D E N T I A L STATE 124099

16 MAY 79 03 33Z

E.O. 12065 GDS, 5/15/85 (GREENE, MYLES)

TAGS: MASS, IR

SUBJECT: STATUS OF ARMISH/MAAG PERSONNEL

1. (C - ENTIRE TEXT)

2. WE CONSIDER IT MATTER OF GREAT URGENCY, AFTER CANCELLATION OF 1964 LAW MENTIONED BELOW, THAT ARMISH/MAAG PERSONNEL BE GIVEN DIPLOMATIC PROTECTION.

3. IN THAT CONNECTION, YOU SHOULD DELIVER AT ONCE NOTE BELOW TO APPROPRIATELY HIGH MFA LEVEL. AT SAME TIME, SUGGEST YOU INFORM YOUR MILITARY CONTACTS OF IMPORTANCE WE GIVE TO THIS SUBJECT AND ACTION WE ARE TAKING.

4. QUOTE. THE EMBASSY OF THE UNITED STATES OF AMERICA (COMPLIMENTARY OPENING) AND TAKES NOTE OF THE RECENT STATEMENT OF THE FOREIGN MINISTRY OF THE PROVISIONAL ISLAMIC GOVERNMENT OF IRAN ANNOUNCING THE GOVERNMENT'S DECISION TO ABOLISH THE LAW GRANTING AMERICAN MILITARY ADVISERS IN IRAN THE ENJOYMENT OF THE PRIVILEGES AND IMMUNITIES OF THE VIENNA CONVENTION, ENACTED 13 OCTOBER 1964.

5. QUOTE. BECAUSE OF THIS ACTION, ALL REMAINING AMERICAN MILITARY ADVISORY PERSONNEL CURRENTLY IN IRAN, UNDER AGREEMENTS AND ARRANGEMENTS MADE BETWEEN THE TWO GOVERNMENTS, HAVE BEEN ASSIGNED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE UNITED STATES EMBASSY AS MEMBERS OF ITS ADMINISTRATIVE AND TECHNICAL STAFF. THE DEPARTMENT OF STATE WILL ISSUE DIPLOMATIC PASSPORTS TO SUCH PERSONNEL AND REQUESTS THAT SUCH PERSONNEL BE DULY ACCREDITED IN THAT CAPACITY TO THE GOVERNMENT OF IRAN BY THE MINISTRY OF FOREIGN AFFAIRS. ATTACHED IS A LIST OF THE NAMES OF THOSE PERSONNEL.

6. QUOTE. IN VIEW OF THE NEED TO CLARIFY THE STATUS OF SUCH PERSONNEL FOR THE DURATION OF THEIR STAY IN IRAN, THE EMBASSY OF THE UNITED STATES REQUESTS THE URGENT ATTENTION OF THE MINISTRY OF FOREIGN AFFAIRS TO THIS MATTER AND THE ISSUANCE TO THESE INDIVIDUALS OF DIPLOMATIC IDENTIFICATION DOCUMENTS.

7. QUOTE. COMPLIMENTARY CLOSING. UNQUOTE.

8. FYI: IF GOI DOES NOT GRANT ACCREDITATION URGENTLY, WE WILL HAVE TO GIVE SERIOUS CONSIDERATION TO WITHDRAWING ALL ARMISH/MAAG PERSONNEL. VANCE

No. 187

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Provisional Government of the Islamic Republic of Iran and takes note of the recent statement of the Foreign Ministry of the Provisional Islamic Government of Iran announcing the Government's decision to abolish the law granting American military advisers in Iran the enjoyment of the privileges and immunities of the Vienna Convention, enacted 13 October 1964.

Because of this action, all remaining American military advisory personnel currently in Iran, under agreements and arrangements made between the two governments, have been assigned by the Government of the United States of America to the United States Embassy as members of its administrative and technical staff. The Department of State will issue diplomatic passports to such personnel and requests that such personnel be duly accredited in that capacity to the Government of Iran by the Ministry of Foreign Affairs. Attached is a list of the names of those personnel.

In view of the need to clarify the status of such personnel for the duration of their stay in Iran, the Embassy of the United States requests the urgent attention of the Ministry of Foreign Affairs to this

matter and the issuance to these individuals of diplomatic identification documents.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,

Tehran, May 16, 1979.

Major General Philip C. Gast
Colonel Morris T. Warner Jr.
Colonel Dan Moses
Colonel Keith Barlow
LT Colonel Bill R. Vinson
LT Colonel Jerry T. Willis
LT Colonel Larry Lillard
LT Colonel Joseph M. Stevenson
LT Colonel Robert R. McWilliams
LT Commander Robert A. Engelmann
Commander Don A. Sharer
Major William L. Faulkner
Captain Thomas G. Fierke
Captain Patrick J. Quinn
Captain Homer B. Cassada
Captain Thomas H. Evans
First Lieutenant Craig P. Knapp
First Lieutenant Byron L. Swanson
First Lieutenant Russel G. Hatch
First Lieutenant Garland J. Pannell
Second Lieutenant Larry E. Raff
Ensign Keith A. Daniels
Sergeant First Class Frank T. Kubiak
Sergeant First Class James R. Stump
Sergeant First Class Jerry A. Rowland
Staff Sergeant William A. Holland Jr.
Specialist Six Roy A. Harris
Specialist Six John R. Stewart
Specialist Five Virgil K. Neil
GS-14 William L. Wolfe
GS-14 Ted A. Williamson
GS-11 Barry B. Brunson
Sergeant Keith W. Clevenger

DE RUQMHR #5081 136 **
ZNY CCCCC
O 160938Z MAY 79
FM CARMISH/MAAG TEHRAN IRAN
TO RUEAHOF/CARMISH/MAAG ALEX VA IMMEDIATE
RUFDAAA/CINCUSAREUR HEIDELBERG GE
RUSNAAA/USCINCEUR VAIHINGEN GE
RUEKJCS/SECDEF WASH DC
RUEHC/SECSTATE WASHDC
RUEKJCS/JCS WASH DC
RUEADWD/DA WASH DC
RUEAHQA/HQUSAF WASH DC
RUENAAA/CNO WASH DC
BT
C O N F I D E N T I A L TEHRAN IRAN 05081

FOR
AEAGD-PO-I
ECDC/ECJ1/ECJ4/7/ECPLAD
ASD:ISA/DSAA
NEA-IRN/PM-SAS
DJCS/J-1
TJAG-INTL LAW
JA-INTL LAW
JAG-INTL LAW

CLASS: CONFIDENTIAL
CHRGE: MAAG 5/16/79
APPRV: WARNER
DRFTD: WARNER
CLEAR: N/A
DISTR: MAAG CHRON

SUBJECT: ARMISH MAAG IMMUNITIES

REFERENCE: A. CARMISH MAAG 141318Z MAY 79 (U)
B. AMEMB TEHRAN 151256Z MAY 79 (C)
C. SECSTATE 160059Z MAY 79 (C)

1. (C) REF A ADVISED OF CANCELLATION OF ARMISH MAAG IMMUNITIES. REF B CITED GOI FOREIGN MINISTER'S COMMENTS TO AMEMB CHARGE' REGARDING CANCELLATION. REF C PROVIDED PROPOSED NOTE FROM SECSTATE TO GOI FOREIGN MINISTER.

2. (C) IN REF B FONMIN YAZDI, EXPLAINED TO AMEMB CHARGE' NAAS THAT CANCELLATION OF IMMUNITIES FOR ARMISH MAAG PERSONNEL SHOULD NOT BE INTERPRETED AS AN ANTI-AMERICAN STEP OR A CHANGE IN GOI'S DESIRE TO NORMALIZE RELATIONS. HE FURTHER EXPLAINED THAT THE PASSAGE OF THE 1964 "CAPITULATION" HAD BEEN MET WITH DEMONSTARTIONS IN IRAN AND HAD LED TO THE EXILE TO TURKEY OF AYATOLLAH KHOMEINI.

3. (C) PROPOSED SECSTATE NOTE CITED IN REF C WOULD ASSIGN ALL REMAINING AMERICAN MILITARY ADVISORS TO US EMB ADMINISTRATIVE/TECHNICAL STAFF AND REQUEST ISSUANCE OF DIPLOMATIC PASSPORTS TO THESE PERSONNEL.

4. (C) AS POINTED OUT BY REF A, MOST HISTORICAL FILES AT THIS LOCATION WERE DESTROYED DURING REVOLUTION. AS A RESULT, WE ARE UNABLE TO DETERMINE IMPACT OF IMMUNITIES CANCELLATION. HOWEVER, DUE TO THIS ACTION AND LACK OF A STATUS OF FORCES AGREEMENT WITH IRAN, REMAINING US MILITARY ADVISORS ARE LEGALLY VERY VULNERABLE. THIS IS OF SPECIAL CONCERN IN VIEW OF CONTINUING ANTI-AMERICAN (ESPECIALLY MILITARY) PROPAGANDA ON IRANIAN NEWS MEDIA.

5. (C) PENDING CLARIFICATION OF US MILITARY ADVISOR STATUS STEPS HAVE BEEN TAKEN TO REDUCE POTENTIAL FOR LEGAL INVOLVEMENT. ADVISORS WILL NOT DRIVE AUTOMOBILES UNLESS NO ALTERNATIVE EXISTS, AND THEN ONLY WITH PROPER LICENSE, INSURANCE AND VALID CREDENTIALS. ADDITIONAL CARE IS EXERCISED IN AVOIDING SITUATIONS OF POTENTIAL CONFRONTATION WITH IRANIAN NATIONALS. US MILITARY ADVISORS, IF REQUIRED TO ATTEND EVENING FUNCTIONS, WILL RETURN HOME PRIOR TO 2200L OR WILL ARRANGE TO STAY OVER NIGHT AT THE FUNCTION LOCATION. THIS WILL PRECLUDE ANY CONTACT WITH NIGHTLY KOMITAY STREET PATROLS. EXTRA CAUTION IS BEING EXERCISED IN EVERY ACTIVITY.

6. (C) SITUATION IS NOT CRITICAL BUT DEMANDS RESOLUTION AS SOON AS POSSIBLE.

DECLASSIFY: 16 MAY 80

WARNER
BT
#5081

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16 MAY

VV ESA384BRN433
OO RUQMHR
DE RUSNAAA 1933 1361056
ZNR UUUUU
O 161025Z MAY 79
FM USCINCEUR VAIHINGEN GERMANY //ECDC//
TO RUQMHR/CARMISH MAAG TEHRAN IRAN
INFO RUEHC/SECSTATE WASHDC
RUEADWD/OASD/ISA WASHDC //DSAA/NEA-IRN-PM-SAS//
RUEKJCS/JCS WASHDC
RUQMHR/AMEMB TEHRAN IRAN
RUEADWD/DA WASHDC //DAJA-IA//
RUENAAA/CNO WASHDC //JAG-INT LAW//
RUEAHQA/HQ USAF WASHDC //JA-INT LAW//
RUFDAAA/CINCUSAREUR HEIDELBERG GE //AEAGD-PO-I/AEAJA-IA//
RUQMHR/CARMISH MAAG REAR ALEXANDRIA VA
BT
UNCLAS
ECDC 09754
SUBJ: DIPLOMATIC IMMUNITY
A. CARMISH MAAG TEHRAN IRAN DTG 141318Z MAY 79
1. INFORMATION AVAILABLE THIS HQ INDICATES IRANIAN LAW OF 13 OCTOBER 1964 (DESCRIBED AND TRANSLATED IN 19 UST 7535, TIAS 6594) PURPORTED TO EMPOWER IRANIAN GOVERNMENT TO GRANT

MAAG CHC POL DAO CHRON SAVE

PAGE 2 RUSNAAA1933 UNCLAS

MEMBERS OF US MILITARY MISSIONS IN IRAN PRIVILEGES AND IMMUNITIES SPECIFIED BY 1961 VIENNA CONVENTION ON DIPLOMATIC RELATIONS (23 UST 3227, TIAS 7502). US AND IRANIAN GOVERNMENTS THEREAFTER EXCHANGED NOTES ON 9 DECEMBER 1964 (19 UST 7537, TIAS 6594) AGREEING THAT SUCH PERSONNEL WOULD HAVE STATUS OF MEMBERS OF ADMINISTRATIVE AND TECHNICAL STAFF OF AMERICAN EMBASSY AND ENJOY PRIVILEGES AND IMMUNITIES REFERRED TO IN PARAGRAPH 2, ARTICLE 37, OF THE VIENNA CONVENTION. THE AGREEMENT OF 9 DECEMBER 1964 HAS NOT BEEN MODIFIED OR ABROGATED TO OUR KNOWLEDGE AND WAS REFERRED TO IN THE 24 AND 30 MAY 1973 EXCHANGE OF NOTES (25 UST 3048, TIAS 7963) THAT EXTENDED SAME STATUS TO AMERICAN MILITARY AND CIVILIAN TECHNICIANS IN IRAN ASSISTING IN THE MODERNIZATION PROGRAM OF IRANIAN ARMED FORCES.
2. IT IS VIEW OF THIS HEADQUARTERS THAT RECISSION OF 1964 IRANIAN LAW HAS NO EFFECT ON INTERNATIONAL LEGAL VALIDITY OF EXCHANGES OF NOTES AGREEING TO DIPLOMATIC STATUS FOR PERSONNEL IN QUESTION. THEREFORE, IT IS VIEW OF THIS HEADQUARTERS THAT US MILITARY REMAINING IN IRAN CONTINUE TO HAVE DIPLOMATIC STATUS THEY HAD BEFORE RECISSION OF 1964 IRANIAN LAW.

PAGE 3 RUSNAAA1933 UNCLAS
3. UNLESS AND UNTIL COORDINATED STATE/DEFENSE INSTRUCTIONS DIRECT OTHERWISE, VIEW EXPRESSED ABOVE IS POSITION YOU SHOULD TAKE. SUBJECT SHOULD BE DISCUSSED WITH IRANIANS ONLY IN CLOSE COORDINATION WITH EMBASSY.
BT
1933

Note Delivered

NNNN

LIMITED OFFICIAL USE TEHRAN 5440

FM RUQMBR #5440 144 **
ZNY CCCCC ZZH
P 241817Z MAY 79
FM AMEMBASSY TEHRAN
TO SECSTATE WASHDC PRIORITY 1631
BT
C O N F I D E N T I A L

CLASS: LIMITED OFFI
CHRGR: STATE 5/24/7
APPRV: ADMIN:ARMILL
DRFID: PER:DAJOHNSO
CLEAR: CONS:TAFARRE
DISTR: PER-2 CHARGE
CRU

LIMITED OFFICIAL USE TEHRAN 05440

E.O. 12065: N/A
TAGS: OPRS, MASS, IR
SUBJ: DIPLOMATIC PASSPORTS FOR ARMISH/MAAG PERSONNEL

REF: STATE 125042

1. LISTED BELOW ARE FULL NAMES OF ARMISH/MAAG PERSONNEL WHO ARE APPLYING FOR PASSPORTS:

[redacted]

2. APPLICATIONS BEING HANDCARRIED TO STATE DEPT. BY A/M PERSONNEL LEAVING TEHRAN MAY 23. MAAG
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#5440

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LIMITED OFFICIAL USE TEHRAN #5440

5

U.S. Government Printing Office: 1976—204-830

DEPARTMENT OF STATE

Washington D.C.

June 4, 1979

OFFICIAL-INFORMAL
UNCLASSIFIED

Mr. Charles W. Naas
Chargé d'Affaires a.i.
American Embassy
Tehran, Iran

Dear Charlie:

We have checked with Mr. Malmborg in L concerning steps needed to assure diplomatic immunity for the ARMISH/MAAG people in Tehran. He tells us that with the sending of the diplomatic note to the Foreign Ministry and the issuance of diplomatic passports to the people concerned, we have done everything that we can. More importantly, Mr. Malmborg feels that these steps, coupled with the silent acquiescence of the PGOI by not rejecting our note, constitutes ample basis under international law and practice for establishing the diplomatic immunity status.

The only steps that would strengthen further the status would be the issuance of some documentation by the PGOI showing their endorsement of the status, or an acknowledgement by diplomatic note from the Foreign Ministry of the status.

I hope this will be reassuring to the people involved. With the very best of regards and wishes,

Sincerely,

Carl Clement
Office of Iranian Affairs

UNCLASSIFIED

No. 255

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Provisional Government of the Islamic Republic of Iran and has the honor to refer to Note Number 187 with enclosure, dated May 16, 1979, pertaining to those military advisory personnel assigned by the Government of the United States of America to the Embassy of the United States as members of its administrative and technical staff.

Attached is a current list of names of those military personnel presently assigned to the Embassy of the United States as members of its administrative and technical staff.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest considerations.

Ministry of Foreign Affairs,

Tehran, June 7, 1979.

Gast c

Colonel Ronald R. Davis

Colonel James D. Herndon

LT Colonel Dale Lautzenheiser

LT Colonel Joseph M. Stevenson

LT Colonel Allen E. Fine

LT Colonel John W. Olson

LT Colonel Gerald W. Rinker

Commander Don A. Sharer

Commander Gerald M. Higbee

Major William J. Faulkner

LT Commander Robert A. Engelmann

Captain Thomas G. Fierke

Captain Warren D. Vines

First Lieutenant Russel G. Hatch

First Lieutenant Craig G. Knapp

First Lieutenant Garland J. Pannell

First Lieutenant Byron J. Swanson

Second Lieutenant Larry E. Raff

Ensign Keith A. Daniels

Master Sergeant Regis J. Ragan

Sergeant First Class James R. Stump

Sergeant First Class Carl L. Hardy

Staff Sergeant Melvin G. Naidas

Staff Sergeant William A. Holland Jr.

Technical Sergeant Rex A. Baker

Specialist Six John R. Stewart

Specialist Five Virgil K. Neil

No. 267

The Embassy of the United States of America presents its compliments to the Islamic Republic's Ministry of Foreign Affairs and has the honor to inform the Ministry that with reference to the subject of severance payment to the former employees of this Embassy, the Government of the United States of America considers the former ARMISH/MAAG employees as part of the Embassy staff. The Government of the United States of America voluntarily endeavors to comply with local laws, customs and practices to the extent they do not contravene the laws and regulations of the Government of the United States of America. In accepting employment with an agency of the Government of the United States of America the Iranian employees agreed to this condition. As such there exists a certain immunity in complying with the labor laws of the Islamic Republic.

Furtber, the Government of the United States of America advises that if the Islamic Republic's Ministry of Foreign Affairs believes that these employees are not part of the Embassy staff and since the salaries of the ARMISH/MAAG employees have in fact been paid by the Government of Iran, the Islamic Republic should pay any additional compensation it believes is required in order to comply with its decrees and/or laws.

The Embassy avails itself of this opportunity to renew to the Ministry the assurances of its highest consideration.

2 Addressee
2 CRU
2 PER ✓
1 Shabestari (SSO)
1 Mr. Komaglu

Embassy of the United States of America

Tehran, June 13, 1979.

C O N F I D E N T I A L TEHRAN 10336/1

DE RUQMHR #0336/01 267 **
ZNY CCCCC ZZH
O 241341Z SEP 79
FM AMEMBASSY TEHRAN
TO RUEHC/SECSTATE WASHDC IMMEDIATE 3918
INFO RUEKJCS/SECDEF WASH DC PRIORITY
RUEKJCS/JCS WASH DC
RUEADWD/CSA WASH DC
RUENAAA/CNO WASH DC
RUEAHQA/CSAF WASH DC
RUSNAAA/USCINCEUR VAIHINGEN GE
BT

CLASS: CONFIDENTIAL
CHRGE: STAT 9/23/79
APPRV: CHARGE:LBLAINGEN
DRFTD: POL:EASWIFT:GO
CLEAR: A/M:RDAVIS
DISTR: POL2 CHG A/M
CONS ICA CHRON
RF

C O N F I D E N T I A L SECTION 01 OF TEHRAN 10336

LIMDIS

FOR ASD:ISA/DSAA, DJCS-J-4/5, DACS-IRN, OP-63, PAI/LETT, ECDC/ECJ7,J-5,J-2

E.O. 12065: GDS 9/23/85 (SWIFT, ELIZABETH A.) OR-P
TAGS: IR, MORG, MPOL
SUBJECT: DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR MAAG PERSONNEL

1. (C - ENTIRE TEXT).

2. ON SEPTEMBER 18, POLOFF WAS CALLED TO FOREIGN MINISTRY BY HEAD OF LEGAL BUREAU FARROKH PARSI. PARSI REFERRED TO THE EMBASSY'S NOTE 187 OF MAY 16, 1979, TO THE DEPARTMENT OF FOREIGN AFFAIRS INFORMING THE PGOI THAT BECAUSE OF THE CANCELLATION OF THE 1964 LAW REGARDING U.S. MILITARY ADVISORS IN IRAN, ALL REMAINING MILITARY ADVISORY PERSONNEL CURRENTLY IN IRAN HAD BEEN ASSIGNED BY THE USG TO THE U.S. EMBASSY AS MEMBERS OF ITS ADMINISTRATIVE AND TECHNICAL STAFF. THE NOTE GOES ON TO REQUEST THE MFA TO GRANT DIPLOMATIC ID DOCUMENTS TO THESE INDIVIDUALS. (ONLY ONE ID HAS YET BEEN ISSUED BY MFA AND THAT WAS TO SGT. WILLIAM D. GERMAN).

3. MR. PARSI POINTED OUT THAT THE 1964 LAW HAD BEEN ABOLISHED AND THAT THE PGOI WOULD NEVER AGAIN ESTABLISH A LAW WHICH PUT MILITARY ADVISORS OF A FOREIGN COUNTRY OUTSIDE THE CIVIL AND CRIMINAL JURISDICTION OF IRANIAN COURTS. MR. PARSI SAID THAT PGOI RECOGNIZED THE ROLE OF MILITARY ATTACHES WHOSE PRIVILEGES AND IMMUNITIES WERE WELL ESTABLISHED UNDER INTERNATIONAL LAW. THE EMBASSY, HOWEVER, WAS NOW GIVING DIPLOMATIC PASSPORTS TO MEMBERS OF THE MAAG GROUP AND INTRODUCING THEM AS MEMBERS OF ITS ADMINISTRATIVE AND TECHNICAL STAFF WHEN IN REALITY THEY WERE NOT. MR. PARSI POINTED OUT THAT THE QUESTION OF MILITARY ADVISORS IN IRAN IS AN EXTREMELY SENSITIVE ONE FOR THE PGOI BOTH BECAUSE OF THE HISTORY OF THE QUESTION (EMBASSY COMMENT: THE PGOI REGARDS THE 1964 LAW AS HAVING BEEN IMPOSED ON IRAN BY THE SHAH AND THE USG) AND BECAUSE OF IRANIAN PUBLIC OPINION.

4. MR. PARSI INTERPRETED THE EMBASSY'S NOTE OF MAY 16 AS REQUESTING THE PGOI TO REGULARIZE THE STATUS OF OUR

C O N F I D E N T I A L TEHRAN 10336/

MAAG PERSONNEL AND STATED CATEGORICALLY THAT THE PGOI WOULD NOT BE WILLING TO PASS ANY NEW LAW GIVING THE MAAG DIPLOMATIC PRIVILEGES AND IMMUNITIES. WHILE PARSI DID NOT SAY SO SPECIFICALLY, IT WAS CLEAR FROM THE CONVERSATION THAT THE MFA DOES NOT WISH TO CONTINUE TO PERMIT THE MAAG PERSONNEL TO BE CARRIED AS ADMINISTRATIVE AND TECHNICAL STAFF OF THE EMBASSY. PARSI, HOWEVER, IS A VERY REASONABLE AMERICAN TRAINED LAWYER WHO WAS PLAINLY LOOKING FOR SOME FACE SAVING WAY BOTH TO SATISFY THE PGOI'S POLITICAL SENSITIVITIES AND TO FIND ACCEPTABLE PROTECTION FOR THE MAAG PERSONNEL.

5. PARSI SAID THAT PGOI IS NOT REALLY INTERESTED IN THE QUESTION OF CUSTOMS ETC., PRIVILEGES FOR MAAG PERSONNEL. THEY DO FEEL THAT ALL MILITARY "ADVISORS" SHOULD BE UNDER IRANIAN CRIMINAL JURISDICTION. PARSI POINTED OUT THAT ONLY CASES OF CRIMINAL OFFENSES OF U.S. MILITARY PERSONNEL IN IRAN IN PAST HAD INVOLVED TRAFFIC OFFENSES (SIC). PARSI WONDERED IF IT WOULD NOT BE POSSIBLE SIMPLY TO GIVE ALL MAAG PERSONNEL DRIVERS AND THIS WAY AVOID THEM EVER BEING INVOLVED IN CRIMINAL CASES. POLOFF POINTED OUT THAT IF ABOVE WERE TRUE WE HAD SIMPLY BEEN VERY LUCKY IN IRAN. FROM HER EXPERIENCE WITH SOFAS IN OTHER COUNTRIES, THE POINT OF CRUCIAL IMPORTANCE TO DOD WAS ALWAYS THE CRIMINAL JURISDICTION QUESTION. SHE DOUBTED THAT USG COULD ALLOW ITS MILITARY PERSONNEL TO SERVE IN IRAN WITHOUT PROTECTION FROM CRIMINAL AND CIVIL PROSECUTION. (EMBOFF DID NOT MENTION QUESTION OF ON-DUTY, OFF-DUTY STATUS FOUND IN MANY SOFAS. THE CONVERSATION WAS FAIRLY NON-SPECIFIC AND PARSI DID NOT SEEM YET TO BE UP TO DATE ON HOW THIS ISSUE IS HANDLED IN OTHER COUNTRIES.)

6. PARSI ASKED WHAT COVERAGE WAS GIVEN TO MILITARY PERSONNEL STATIONED IN THE U.S. (SUCH AS MILITARY PURCHASING TEAMS) WHO WERE NOT ATTACHES. DID THE U.S. GRANT DIPLOMATIC PRIVILEGES TO SUCH PEOPLE IN THE U.S.? WERE THERE ANY CASES WHERE MILITARY PERSONNEL OF FOREIGN COUNTRIES SIMILAR TO MAAG PERSONNEL IN IRAN ARE ASSIGNED TO EMBASSIES IN WASHINGTON AS TECHNICAL AND ADMINISTRATIVE STAFF? IN ASKING THIS, PARSI WAS PLAINLY SEARCHING FOR
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C O N F I D E N T I A L TEHRAN 10336/

SOME COMPARABLE STANDARD WHICH HE COULD USE TO ARGUE FOR DIPLOMATIC COVERAGE OF MAAG PERSONNEL IN IRAN.

7. PARSI ASKED HOW MANY MAAG PERSONNEL ARE PRESENTLY AT EMBASSY. HE ASSUMED THERE WERE ONLY SIX AS U.S. LAW WILL NOT PERMIT DOD TO PAY SALARIES FOR MORE THAN SIX MILITARY ADVISORS AND ALL LAWS WHICH PERMITED PGOI TO PAY SALARIES OF FOREIGN MILITARY ADVISORS HAVE NOW BEEN ABOLISHED. COMMENT: EMBASSY WILL FURNISH PARSI WITH CURRENT LIST OF MAAG PERSONNEL WHO NUMBER SEVEN AND WILL INFORM HIM THAT SOME MAAG PERSONNEL WILL STILL BE PAID UNTIL OCTOBER 1 FROM TRUST FUND. AFTER OCTOBER 1, MAAG GROUP WILL DROP TO SIX PERSONS. ANY ADDITIONAL PERSONNEL WILL COME ONLY IN TDY STATUS.

8. ACTION REQUESTED: WOULD APPRECIATE ANY EXAMPLES DOD/STATE CAN GIVE US OF CASES WHERE NON-ATTACHEE FOREIGN MILITARY PERSONNEL RECEIVE DIPLOMATIC IMMUNITY PRIVILEGES IN THE U.S. IT WOULD ALSO BE USEFUL TO HAVE EXAMPLES OF HOW WE HANDLED THIS IN COUNTRIES SIMILAR TO IRAN WHERE SOFA'S DO NOT EXIST.

9. COMMENT: IN AN 8/4/79 LETTER TO THE MINISTER OF NATIONAL DEFENSE; SUBJECT: RENAMING ARMISH MAAG, THE U.S. SENIOR DEFENSE REPRESENTATIVE REFERRED TO THE "CLOSE OUT OF AMERICAN ADVISORY FUNCTIONS WITHIN THE IRANIAN ARMED FORCES", AND ASKED MOND ASSISTANCE IN APPROPRIATE RENAMING OF THE U.S. MILITARY MISSION. ALTHOUGH WE HAVE FOLLOWED UP, WE HAVE YET TO RECEIVE A RESPONSE. THE POSITIVE SHIFT FROM ANY ADVISORY CONNECTION WILL BE PURSUED WITH THE GOI AND COULD HELP IN OUR POSITION.

10. THIS IS PLAINLY A VERY SERIOUS ISSUE AS FAR AS THE MINISTRY OF FOREIGN AFFAIRS IS CONCERNED, ESPECIALLY AS WE HAVE INDICATIONS THAT PARSI WORKS QUITE CLOSELY WITH FOREIGN MINISTER YAZDI. WE DO NOT KNOW, HOWEVER, IF THIS APPROACH HAS IN ANYWAY BEEN COORDINATED WITH THE MINISTRY OF DEFENSE. WE WOULD LIKE TO ATTEMPT TO SOLVE THE QUESTION AS QUIETLY AND AT AS LOW A LEVEL AS POSSIBLE. PARSI IS CORRECT IN SAYING THAT THIS ISSUE IS EXTREMELY SENSITIVE AND ONE OF FUNDAMENTAL IMPORTANCE TO PGOI. AYATOLLAH KHOMEINI MADE HIS NAME ORIGINALLY BY FIGHTING THE 1964 LAW AND WE DOUBT HE IS PRESENTLY AWARE OF SPECIFIC STATUS OF MAAG PERSONNEL. WERE ISSUE TO BECOME PUBLIC WE COULD WELL FIND ALL AVENUES FOR REASONABLE SETTLEMENT OF QUESTION CUT OFF BY NATIONALISTIC RHETORIC. LAINGEN
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E.O. 12065: GDS 10/14/85 (SWIFT, ELIZABETH A.) OR-P
TAGS: IR, MORG, MPOL
SUBJECT: DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR MAAG PERSONNEL

REF: TEHRAN 10336

1. (C - ENTIRE TEXT).

2. EMBASSY WOULD APPRECIATE REPLY REFTEL AS SOON AS POSSIBLE. LAINGEN
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E.O. 12065: GDS 10/19/85 (CLEMENT, CARL)

TAGS: IR, MORG, MPOL, AODE

SUBJECT: DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR MAAG PERSONNEL (MODE)

REFS: (A) TEHRAN 10336; (B) TEHRAN 10926

1. (C - ENTIRE TEXT.)

2. IN PURSUING MATTER OF DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR MAAG PERSONNEL WITH MFA, YOU SHOULD POINT OUT TO PGOI THAT ASSIGNMENT OF SECURITY ASSISTANCE MANAGEMENT PERSONNEL AS PART OF EMBASSY STAFF IS CONSISTENT WITH WORLDWIDE PRACTICE REGARDING MILITARY PERSONNEL WITH FMS MANAGEMENT RESPONSIBILITIES. IN NUMEROUS ARRANGEMENTS AROUND THE WORLD, (E.G., BELGIUM, DENMARK, GERMANY, PAKISTAN AND KUWAIT), SUCH PERSONNEL OPERATE AS PART OF THE U.S. DIPLOMATIC MISSION WITH DIPLOMATIC PRIVILEGES AND IMMUNITIES APPROPRIATE TO THEIR RANK AND FUNCTION IN ACCORDANCE WITH VIENNA CONVENTION.

3. THE MFA CHARACTERIZATION OF ARMISH/MAAG PERSONNEL AS "MILITARY ADVISORS" AND MEMBERS OF U.S. MILITARY MISSION IS NOT AN ACCURATE REFLECTION OF THEIR CURRENT FUNCTIONS OR THOSE OF SIMILAR GROUPS WORLDWIDE. MAAG PERSONNEL NO LONGER SERVE UNDER THE 1947 MILITARY MISSION AGREEMENT. THEY ARE ASSIGNED TO IRAN UNDER SECTION 515 (C) OF THE FOREIGN ASSISTANCE ACT WHICH LIMITS THEIR PRIMARY FUNCTIONS TO ACCOUNTING AND OTHER SECURITY ASSISTANCE MANAGEMENT RESPONSIBILITIES. THEY CARRY OUT THESE FUNCTIONS AS PART OF THE EMBASSY STAFF UNDER THE SUPERVISION AND DIRECTION OF THE CHIEF OF MISSION. THE SECURITY ASSISTANCE (MAAG) PERSONNEL WHO ARE IN TEHRAN ARE THERE TO CARRY OUT NECESSARY LIAISON FUNCTIONS AND TO ASSIST IN WORKING OUT FMS MATTERS. THEIR PRESENCE BENEFITS IRAN. WITHOUT THE MAAG PERSONNEL ON THE SCENE IN TEHRAN, CONTACTS ON FMS QUESTIONS WOULD BE MUCH MORE CUMBERSOME AND TIME CONSUMING. TO REFLECT THE CHANGED

CHARACTER OF THE NEW SIX-MAN MILITARY GROUP, WE ARE DESIGNATING IT THE DEFENSE LIAISON OFFICE-IRAN.

4. DIPLOMATIC STATUS FOR SECURITY ASSISTANCE MANAGEMENT PERSONNEL IS NOT UNIQUE. EMBASSY SHOULD STRESS TO FOREIGN MINISTRY THAT ASSIGNMENT OF MAAG TYPE PERSONNEL AS PART OF THE STAFF OF AN EMBASSY (WITH ATTENDANT PRIVILEGES) IS PERFECTLY NORMAL, BOTH OVERSEAS AND IN WASHINGTON. A NUMBER OF FOREIGN GOVERNMENTS CONDUCT FMS AND OTHER SECURITY ASSISTANCE BUSINESS THROUGH THEIR EMBASSIES IN WASHINGTON. SOME COUNTRIES HAVE AUGMENTED THEIR EMBASSY STAFFS FOR THIS PURPOSE AND FOREIGN MILITARY PERSONNEL SO ATTACHED ARE NORMALLY NOTIFIED TO THE USG AS PART OF THE EMBASSY STAFF AND ACCORDED DIPLOMATIC PRIVILES AND IMMUNITIES APPROPRIATE TO THEIR RANK AND FUNCTION WITHIN THE EMBASSY, IN ACCORDANCE WITH THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS. FOR EXAMPLE, THERE ARE SEVERAL STAFF MEMBERS OF THE IRANIAN NAVY LIAISON OFFICE IN WASHINGTON WHO HAVE BEEN NOTIFIED TO AND ACCEPTED BY THE DEPARTMENT AS MEMBERS OF THE ADMINISTRATIVE AND TECHNICAL STAFF OF THE IRANIAN EMBASSY.

5. THE EMBASSY MAY WISH TO DRAW ON THE FOLLOWING FOR TALKING POINTS, A NON-PAPER, AN AIDE MEMOIRE, OR A DIPLOMATIC NOTE, WHICHEVER MAY BE MOST APPROPRIATE AT THIS STAGE:

QUOTE BEGINNING COMPLIMENTARY CLAUSE.../ THE UNITED STATES GOVERNMENT HAS FORMED A NEW DEFENSE LIAISON OFFICE AS PART OF THE STAFF OF THE UNITED STATES EMBASSY IN TEHRAN. THE PERSONNEL OF THIS OFFICE FUNCTION UNDER THE SUPERVISION AND DIRECTION OF THE CHIEF OF THE U.S. DIPLOMATIC MISSION. THE PURPOSE OF THE OFFICE IS TO BE OF ASSISTANCE TO THE CHIEF OF MISSION IN THE MANAGEMENT AND FINANCIAL ACCOUNTING OF THE SECURITY ASSISTANCE PROGRAM FOR IRAN. THIS ASSISTANCE ALSO BENEFITS THE ISLAMIC REPUBLIC OF IRAN. THE DEFENSE LIAISON OFFICE PERSONNEL ARE NOT MILITARY ADVISORS, REIMBURSED BY THE GOVERNMENT OF IRAN, AS WAS THE CASE WITH THE MEMBERS OF THE ARMY MISSION/MILITARY ASSISTANCE ADVISORY GROUP (ARMISH/MAAG) WHICH SERVED IN IRAN UNDER THE 1947 MILITARY MISSION AGREEMENT.

THE DEFENSE LIAISON OFFICE STAFF IS COMPOSED OF:

(A) MILITARY:

-- CHIEF OF THE DEFENSE LIAISON OFFICE

-- LOGISTICS OFFICER (AIR FORCE)

-- LOGISTICS OFFICER (ARMY)

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-- LOGISTICS OFFICER (NAVY)

-- F-14 PROJECT MANAGER (NAVY)

-- ADMINISTRATIVE NCO

(B) CIVILIANS:

-- ADMINISTRATIVE BUDGETING ASSISTANT

-- CLERK-STENOGRAPHER

ALL THE PERSONNEL OF THE DEFENSE LIAISON OFFICE, MILITARY
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AND CIVILIAN, ARE MEMBERS OF THE EMBASSY'S ADMINISTRATIVE AND TECHNICAL STAFF.

IN ACCORDANCE WITH THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF APRIL 18, 1961 (TO WHICH IRAN IS ALSO PARTY), THE UNITED STATES GOVERNMENT ACCORDS THE APPROPRIATE DIPLOMATIC PRIVILEGES AND IMMUNITIES, INCLUDING IMMUNITY FROM CRIMINAL JURISDICTION, TO PERSONNEL OF THE IRANIAN NAVY LIAISON OFFICE IN WASHINGTON WHEN SUCH PERSONNEL ARE NOTIFIED TO THE DEPARTMENT OF STATE BY THE EMBASSY OF THE ISLAMIC REPUBLIC OF IRAN IN ACCORDANCE WITH NORMAL PRACTICE. THIS IS NORMAL PRACTICE FOR FOREIGN MILITARY PERSONNEL ASSIGNED TO DEFENSE LIAISON DUTIES WHO ARE WORKING AS STAFF MEMBERS OF THEIR EMBASSIES IN WASHINGTON. SIMILAR PRACTICES ARE FOLLOWED BY OTHER COUNTRIES AROUND THE WORLD.

ACCORDINGLY, THE EMBASSY OF THE UNITED STATES OF AMERICA REQUESTS THAT THE GOVERNMENT OF IRAN ACCEPT PERSONNEL OF THE DEFENSE LIAISON OFFICE AS MEMBERS OF THE UNITED STATES DIPLOMATIC MISSION ENTITLED TO THE PRIVILEGES AND IMMUNITIES OF MEMBERS OF THE MISSION OF COMPARABLE RANK, UPON NOTIFICATION OF SUCH PERSONNEL TO THE MINISTRY OF FOREIGN AFFAIRS IN ACCORDANCE WITH USUAL PRACTICE.//...CLOSING COMPLIMENTARY CLAUSE. QUNOTE.

6. DEFENSE DEPARTMENT HAS TAKEN NECESSARY ACTION TO AUTHORIZE SIX U.S. MILITARY PERSONNEL WITH APPROPRIATE U.S. CIVILIAN AND LOCAL NATIONAL SUPPORT FOR SECURITY ASSISTANCE MANAGEMENT ORGANIZATION IN IRAN. SUBJECT TO YOUR CONCURRENCE, THE MODE POSITIONS FOR THESE PERSONNEL WILL BE THOSE EIGHT DESCRIBED ABOVE, PLUS 1 FSN INTERPRETER-TRANSLATOR, 1 FSN CLERK, AND 2 FSN DRIVERS.

7. LEGALLY NO SEPARATE WRITTEN AGREEMENT OR EXCHANGE OF DIPLOMATIC NOTES IS NECESSARY FOR THE RECOGNITION BY THE HOST GOVERNMENT OF PERSONNEL AS ENTITLED TO APPROPRIATE DIPLOMATIC PRIVILEGES AND IMMUNITIES, THIS BEING COVERED UNDER THE VIENNA CONVENTION AND NORMAL DIPLOMATIC PRACTICE. NEVERTHELESS, WE BELIEVE IT WOULD BE PRUDENT TO HAVE SOME-

TYING ON PAPER SHOWING THAT THE PGOI HAS ACCEPTED SUCH STATUS FOR THE DEFENSE LIAISON OFFICE STAFF. VANCE
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No. 708

The Embassy of the United States of America informs the Ministry of Foreign Affairs of the Islamic Republic of Iran that the United States Government has formed a new Defense Liaison Office as part of the staff of the United States Embassy in Tehran. The personnel of this office function under the supervision and direction of the Chief of the United States diplomatic mission. The purpose of the office is to be of assistance to the Chief of Mission in the management and financial accounting of the Security Assistance Program of Iran. The Defense Liaison Office personnel are not military advisors, reimbursed by the Government of the Islamic Republic of Iran, as was the case with the members of the Army Mission/Military Assistance Advisory Group (ARMISH/MAAG) which served in Iran under the 1947 Military Mission Agreement.

The Defense Liaison Office staff is composed of:

(A) Military:

--Chief of the Defense Liaison Office

--Logistics Officer (Air Force)

--Logistics Officer (Army)

--Logistics Officer (Navy)

--FMS Coordinator (Navy)

--Administrative Noncommissioned Officer

(B) Civilians:

--Administrative Budgeting Assistant

--Clerk-stenographer

All the personnel of the Defense Liaison Office, military and civilian, are members of the Embassy's Administrative and Technical Staff.

In accordance with the Vienna Convention on diplomatic relations of April 18, 1961 (to which Iran is also party), the United States Government accords the appropriate diplomatic privileges and immunities, including immunity from criminal jurisdiction, to personnel of the Iranian Navy Liaison Office in Washington when such personnel are notified to the Department of State by the Embassy of the Islamic Republic of Iran in accordance with normal practice. This is normal practice for foreign military personnel assigned to Defense Liaison duties who are working as staff members of their embassies in Washington. Similar practices are followed by other countries around the world.

Accordingly, the Embassy of the United States of America requests that the Government of the Islamic Republic of Iran accept personnel of the Defense Liaison Office as members of the United States diplomatic mission entitled to the privileges and immunities of members of the mission of comparable rank, upon notification of such personnel to the Ministry of Foreign Affairs in accordance with usual practice.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Islamic Republic of Iran the assurances of its highest consideration.

mbassy of the United States of America,

Tehran, October 29, 1979.

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THE LEGAL STATUS OF AMERICAN FORCES IN IRAN

Richard Pfau

WHEN the Shahanshah of Iran visited Washington in July 1973, American officials encouraged him to consider the most advanced fighter aircraft in the American arsenal, the F-14 and F-15, for addition to the Imperial Iranian Air Force. This encouragement was proof of the dramatic change in the American attitude toward Iran's long standing interest in acquiring sophisticated military hardware from the United States. As contrasted with the American resistance to Iranian weapons purchases in the early 1960s, the new attitude indicated clearly that the United States had recognized Iran's newly developed economic and political capability. Earlier in 1973, the United States had agreed to double Iran's inventory of F-4's and C-130's, provide Iran with an aerial refueling squadron, and also add several hundred helicopters, including not only transports but also gunships and antisubmarine craft. The Shah even told an interviewer that Iran would be obtaining laser-guided bomb systems, the most effective tactical weapon delivery means used by the US Air Force.[1]

To assist the Imperial Iranian armed forces in integrating the new equipment into their inventory, the United States agreed to augment the ARMISH/MAAG, the American military mission to Iran.[2] At a time when ARMISH/MAAG is thus taking on an expanded rôle, it seems especially appropriate to examine the legal status of the American advisors in Iran. Unlike the Status of Forces Agreements (SOFAs) that govern most American servicemen overseas, the arrangement in Iran allows the United States exclusive criminal jurisdiction over all personnel at all times. Iran has waived its right to prosecute, even if American authorities choose not to do so. This kind of extraterritoriality reminds many Iranians of the earlier

1. *Kayhan International Edition* (Tehran), March 3, 1973, p. 1; May 19, 1973, pp. 1 and 4; and September 22, 1973, p. 6; and Arnaud de Borchgrave, "Colossus of the Oil Lanes," *Newsweek*, May 21, 1973, pp. 40-44.
2. *Kayhan International Edition*, Tehran, May 26, 1973, p. 2.

△ RICHARD PFAU is a doctoral candidate in American diplomatic history at the University of Virginia. The author wishes to acknowledge his indebtedness to Professor Rouhollah K. Ramazani of the University of Virginia for directing research and criticizing several drafts of this paper. Responsibility for facts and interpretation is, however, exclusively that of the writer.

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"capitulations" under which foreigners had enjoyed similar privileges. The purposes of this article are (1) to describe the evolution of American thinking concerning extraterritoriality in general, (2) to show how an Irano-American agreement on the status of US forces in Iran resulted from interaction between the general attitude of the United States and the dynamics of Iran's modernization and (3) to suggest alternative courses of action for consideration.

I

Behind the American drive for extraterritoriality in Iran lay a decade of pressure toward extraterritoriality for American military personnel everywhere. American concern for the legal status of its servicemen overseas began with the formation of the North Atlantic Treaty Organization (NATO) in 1949, which was the first peacetime commitment to deploy large American forces outside the western hemisphere on a continuing basis. In February 1950, the Defense Department began working on a draft Status of Forces Agreement to systematize the judicial procedures for handling lawbreakers among the American troops. Both the Defense and State Departments hoped to obtain exclusive jurisdiction (1) over all offenses committed solely against American property, security, or military personnel and (2) over all offenses committed in the course of official duty.

Exclusive jurisdiction amounted to extraterritoriality, which imperial powers had historically exercised over their citizens in "backward" or "less civilized" areas. But all save one of the NATO powers were Western Christian nations, and the exception—Turkey—was the most secular and European of the Muslim states. The United States could not justify extraterritoriality on grounds of racial or cultural supremacy. Colonialist doctrine was also inappropriate because NATO was at least nominally a partnership to further the shared goal of stopping Soviet expansion. Since the United States needed its allies to keep the containment wall intact, it could not bully them into accepting extraterritoriality. The status of US forces serving in NATO nations was therefore negotiated, not dictated. When the other NATO countries refused to grant exclusive jurisdiction, the American negotiators accepted a compromise authorizing concurrent jurisdiction, primary for the sending state and secondary for the receiving state, where the Defense and State Departments had specified exclusive jurisdiction.[3]

3. Testimony of Robert Murphy, Under Secretary of State, in US, Congress, House, Committee on Foreign Affairs, *Status of Forces Agreements, Hearings*, 84th Cong., 1st sess., 1955, pp. 383-84. Concurrent jurisdiction is divided into primary and secondary levels: the state exercising primary jurisdiction has the right to the first decision on whether to try the accused; if it waives that right, the state exercising secondary jurisdiction can then decide whether to try him. The compromise was spelled out in Article VII of the NATO SOFA. See US, Department of State, *United States Treaties and Other International Agreements*, Vol. IV, pt. 2, "Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces," TIAS No. 2846, 1954, pp. 1792-1829.

At the Senate Foreign Relations Committee's ratification hearings in April 1953, some senators worried about the constitutional rights of Americans subjected against their will to foreign judicial systems. For example, Senator William S. Knowland feared that in Middle Eastern countries Americans could suffer such unconstitutionally cruel and unusual punishment as the loss of a hand for theft. Even though a State Department spokesman assured the Committee that non-Muslims were not subject to Islamic law, critics of the SOFAs raised the spectre of exotic Middle Eastern justice many times in subsequent years.[4] Although the Senate easily ratified the NATO SOFA, it did attach a warning reservation in the form of a "sense of the Senate" resolution. The resolution specified that if "there is danger that the accused will not be protected because of the absence or denial of constitutional rights he would enjoy in the United States, the commanding officer shall request the authorities of the receiving states to waive jurisdiction . . . and if such authorities refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and the House of Representatives."[5]

Not content with this reservation alone, the Senate Armed Services Committee set up a subcommittee to keep a watchful eye on the treatment of American servicemen subject to foreign justice. Annually since 1955, Senator Sam J. Ervin, Jr., Chairman of the subcommittee, has conducted hearings at which the Department of Defense has reported on the operation of the NATO SOFA and other similar agreements. At the very first hearing, Brigadier General George W. Hickman, Jr., the Army's Assistant Judge Advocate General, summed up the Defense Department's attitude toward the NATO agreement:

> It is the opinion of the Department of Defense that the jurisdictional arrangements prescribed by the NATO Status of Forces Agreement is [*sic*] to be considered only as an acceptable minimum. We would like to try them all, keep them all within the military enclave.[6]

Patriotic organizations, led by the Daughters of the American Revolution and the American Legion, began to lobby against the NATO SOFA in 1955. A group calling itself the Defenders of the American Constitution sent a representative before

4. US, Congress, Senate, Committee on Foreign Relations, *Agreements Relating to the Status of the North Atlantic Treaty Organization, Armed Forces, and Military Headquarters, Hearings*, 83rd Cong., 1st sess., 1953. Senator Knowland's expression of concern is on p. 50. See also George Stambuk, *American Military Forces Abroad: Their Impact on the Western State System* (Ohio State University Press, 1963), pp. 48-51.

5. US, Congress, Senate, 83rd Cong., 1st sess., May 7, July 14, and July 15, 1953, *Congressional Record*, LXXXXIX, pp. 4659-74, 8780, 8782, and 8837; and US, Congress, Senate, Committee on Foreign Relations, *Agreement Regarding the Status of Forces of Parties of the North Atlantic Treaty, Supplementary Hearing*, 83rd Cong., 1st sess., 1953.

6. US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, NATO Status of Forces Treaty, Hearing* before a sub-committee of the Committee on Armed Services, 84th Cong., 1st sess., 1955, p. 19.

the Ervin subcommittee to plead the case of a soldier imprisoned in France for stealing a taxicab during a drunken holiday. The House Committee on Foreign Affairs, responding to rising public sentiment against the NATO SOFA, conducted its own hearings, at which lobbyists from the Daughters of the American Revolution, American Legion, Defenders of the American Constitution, Veterans of Foreign Wars, and Women's Patriotic Conference all testified in favor of exclusive American jurisdiction over overseas forces.[7] This movement ended in 1956, after General Hickman told the Ervin subcommittee that the agreements were working reasonably well, and the United States District Court of Washington, D. C., upheld the legality of the SOFA with Japan. Both the House Committee on Foreign Affairs and the full House voted down resolutions demanding exclusive jurisdiction.[8]

In late May 1957, the famous Girard Case fanned the dying embers of opposition to the existing SOFAs. On January 30, 1957, Specialist 3rd Class William S. Girard shot and killed a Japanese woman who was gathering brass on a firing range used by the United States Army. Japanese officials insisted that Girard's action was outside the scope of his duty, and after several months of discussions Washington agreed. Opponents of the SOFAs roused public opinion quickly after the Eisenhower Administration announced that Girard would be tried in a Japanese court. The House Committee on Foreign Affairs reversed its earlier position by voting in favor of revising all SOFAs to give the United States exclusive jurisdiction. As the minority report noted, "It is obvious that the deep feeling stirred up by the Girard Case has had its influence on this reversal." By early July, the opponents of the SOFAs had again been defeated. Administration pressure blocked the revision movement in the House, and the Supreme Court affirmed the constitutionality of the government's decision to surrender Girard to the Japanese courts.[9]

Despite the failure of their movement to revise the existing SOFAs, certain congressmen continued their rhetorical opposition. As Representative Frank T. Bow said in 1959, "Here again I stand on the floor of this House, not having been able to convince my colleagues that American soldiers serving overseas in the uniform

7. *New York Times*, April 21, 1955, p. 7, July 1, 1955, p. 5, and July 18, 1955, p. 42; US, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 84th Cong., 1st sess., 1955, pp. 64 and 77; and US, Congress, House, Committee on Foreign Affairs, *Status of Forces Agreements, Hearings*, Part 1, 84th Cong., 1st sess., 1955.

8. US, Congress, House, Committee on Foreign Affairs, *Status of Forces Agreements, Hearings*, Part 2, 84th Cong., 2nd sess., 1956 (Court decision is on p. 928); US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 84th Cong., 2nd sess., 1956; and *New York Times*, May 27, 1956, p. 2 and June 9, 1956, p. 1.

9. *New York Times*, May 25, 1957, p. 3, June 5, 1957, p. 4, June 28, 1957, p. 1, July 3, 1957, p. 1, July 10, 1957, p. 1, July 11, 1957, p. 8, July 12, 1957, p. 1, and July 18, 1957, p. 1; US, Congress, Senate, Committee on Armed Services, *William S. Girard Case*, Hearings before a sub-committee of the Committee on Armed Services, 85th Cong., 1st sess., 1957; and US, Congress, House, Committee on Foreign Affairs, *House Joint Resolution 16*, H. Rept. 678, 85th Cong., 1st sess., 1957, *House Miscellaneous Reports on Public Bills*, Vol. III.

of the United States, following their flag wherever it may go, are denied constitutional rights that have been guaranteed them." A year later, Congressman Peter Rodino announced that, "This is now 1960. Our boys are still subject to foreign jurisdiction under treaties that have remained the same despite Congressional protest." Such speeches warned the Executive Branch that congressional opposition to the SOFAs was far from dead.[10]

A decade after the NATO SOFA was negotiated, there remained two sources of opposition to concurrent jurisdiction. First, patriotic pressure groups and a number of congressmen stood ready to defend what they believed to be the constitutional rights of the American soldier. Second, the Defense Department hoped for exclusive jurisdiction over all its personnel everywhere. Although these forces were too weak by 1959 to force a congressional vote on revising the NATO SOFA, their strength was sufficient to limit the State Department's flexibility in negotiating subsequent Status of Forces Agreements. The diplomats no doubt also recognized that a public outcry would surely follow a repetition of the Girard Case. We shall now consider the impact of the Defense Department's specific pressure for an agreement with Iran.

II

The Defense Department began to build its case for a special arrangement covering its advisory missions in Iran during 1959. These missions dated back to the Second World War, but there was no formal agreement governing their status under Iranian law. The Defense Department's written report to the Ervin subcommittee in August 1959 stated that Iran had refused to waive jurisdiction over any of the four Americans who had violated Iranian laws during the previous year. "The US military commander reported that the lack of any jurisdictional agreement with the Government of Iran has had an adverse effect on the morale of the command," the Pentagon informed the Ervin group.[11]

Iran was one of America's closest friends in the Middle East. In the years after the downfall of the National Front Government, Iran had adhered closely to the American position in the Cold War. The Baghdad Pact symbolized that relationship until the Iraqi coup in 1958 altered the Middle Eastern situation. The United States and Iran then concluded a new bilateral pact in March 1959. The sudden initiation of Defense Department pressure for a SOFA in Iran five months after the bilateral

10. US, Congress, House, 85th Cong., 2nd sess., May 13, 1958, *Congressional Record*, CIV, pp. 8617-19; US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 85th Cong., 2nd sess., 1958; US, Congress, House, 86th Cong., 1st sess., January 9, 1959, *Congressional Record*, CV, p. 721; and US, Congress, House, 86th Cong., 2nd sess., January 20, 1960, *Congressional Record*, CVI, p. 946.

11. US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 86th Cong., 1st sess., 1959, p. 27.

agreement was signed seems hardly coincidental. The United States had also made a new bilateral treaty with Turkey, and at the August 1959 hearing the Defense Department complained about Turkish as well as Iranian justice. Apparently, the Defense Department thought that the bilateral pacts offered an opportunity to increase American jurisdiction over overseas personnel.[12]

Extraterritoriality was a sensitive issue in Iran. Only in 1928 had that nation re-established its sovereignty by renouncing the last of its earlier "capitulations." The American Defense Department either did not understand or deliberately ignored the context in which Iranians would regard the American insistence on exclusive jurisdiction over American servicemen. This context was obvious to a reporter from *The New York Times* in January 1960.[13] Since the American Embassy in Tehran would have furnished the reporter with background information, one may conclude that the Embassy was well aware of the Iranian attitude.

Nevertheless, the Defense Department increased its pressure in 1960. Benjamin Forman, Assistant General Counsel for International Affairs, told the Ervin subcommittee that "developments in Iran during the reporting period have caused concern." Forman stressed that no formal agreement governed the status of the advisors to the Iranian armed forces and Gendarmerie. He also described two cases, both traffic accidents involving Iranian deaths, in which Iran had refused to waive jurisdiction. In one case, an American sergeant driving a truck on official duty had killed a pedestrian. The United States would definitely have exercised primary jurisdiction had an agreement similar to the NATO SOFA been in effect. Instead, an Iranian court tried the sergeant, found him guilty, and sentenced him to two months' confinement and a fine of $650. The prosecution's appeal on the ground that the sentence was too lenient was pending. The other case, in which an off-duty major killed another pedestrian, had reached the newspapers in the United States. The major was convicted and sentenced to six months in jail. He appealed, and a higher court ordered a new trial, which had not yet begun. The Defense Department's written summary reported that, as in the preceding year, Iran had granted no waivers.[14]

Iran began to re-evaluate its relationship with the United States in 1961. The friendship of the 1950s had included millions of dollars in American military and economic aid, but when the Kennedy Administration entered office the Shah was worried about the continuation of that aid. When Kennedy's Ambassador at Large, Averill Harriman, reached Rome during a worldwide tour to explain the new Administration's policies, the Shah invited him to Tehran. Harriman promised that

12. Rouhollah K. Ramazani, *The Persian Gulf: Iran's Role* (Charlottesville: University Press of Virginia, 1972), pp. 106-7. I am indebted to Professor Ramazani for pointing out the temporal connection between the bilateral pact and the Defense Department's initiation of pressure for a SOFA with Iran.

13. *New York Times*, January 3, 1960, p. 9.

14. US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 86th Cong., 2nd sess., 1960, pp. 9-10 and 25.

the United States would continue to support Iran's independence, but it appeared to the Shah that the Americans were losing interest in Iran. As he later told C. L. Sulzberger of *The New York Times*, Iran had gone along when the Eisenhower Administration had asked her to end negotiations for a non-aggression pact with the Soviet Union. Now, the Shah went on, the United States was reluctant to underwrite the cost of bringing Iran's military forces up to the level of neighboring and hostile Iraq. The monarchy was also facing powerful domestic opposition in the spring of 1961. After months of demonstrations and riots, the Shah had closed parliament and allowed the prime minister to rule by decree. At the Vienna summit conference, Soviet Premier Nikita Khrushchev pointed to this situation as evidence of the Shah's coming demise.[15]

The status of forces issue impinged upon this relationship between Iran and the United States. During the Ervin subcommittee hearing in July, 1961, Forman again identified Iran as a problem area. Sixteen cases had been subject to Iranian jurisdiction in the preceding year, and none had been waived. Defense Department pressure, generated through these congressional hearings, was bound to affect the Department of State, which did not want to go through a round of legislative inquisition on protecting American soldiers in the Middle East. American military commanders in Iran were no doubt exerting pressure on the Embassy as well. Even though the State Department probably recognized that Defense's object—exclusive jurisdiction—would insult Iran's pride, the Defense Department could not be resisted. Informal discussions between the Embassy and Iran's Ministry of Foreign Affairs began early in 1962, and on March 19 the Embassy formally requested that American military personnel, civilian employees of the Defense Department, and their families be granted diplomatic immunity. This could be accomplished, the Embassy suggested, by including the military community with the Embassy's administrative and technical staff, whose privileges would be certified as soon as Iran ratified the recently-signed Vienna Convention concerning diplomatic intercourse.[16]

Two days after the Embassy's proposal, President Kennedy invited the Shah to visit Washington so that the President could explain the American plans for future military and economic aid. Presidential Counsel Theodore Sorenson has written of the Administration's attitude toward the Iranian military at this time:

> In Iran, the Shah insisted on our supporting an expensive army too large for border incidents and internal security and of no use in an all-out war. His army, said one government advisor, resembled the proverbial man who was too heavy to do any light work and too light to do any heavy work.[17]

15. *New York Times*, March 11, 1961, p. 3, March 15, 1961, p. 14, and July 22, 1961, p. 20; and Theodore Sorenson, *Kennedy* (New York: Harper & Row, 1965), pp. 546-57.

16. US, Department of State, *United States Treaties and Other International Agreements*, Vol. XIX, pt. 6, TIAS No. 6594, 1958, p. 7526; and United Nations, Treaty Series, *Treaties and International Agreements Registered or Filed and Reported with the Secretariat of the United Nations*, Vol. 500 (1964), No. 7310, "Vienna Convention on Diplomatic Relations," April 18, 1961, pp. 95-126.

17. Sorenson, *Kennedy*, p. 628 n.

During their conferences, the President told the Shah that in the future American foreign aid would emphasize long term development rather than military strength. Then, in what must have seemed a deliberate insult, barely half the members of Congress attended when the Shah addressed a joint session.[18]

After the Shah returned from his chilling visit to the United States, he decided to accomplish two tasks: he would begin to take a more independent course in international affairs, neither renouncing nor relying exclusively on his alliance with the United States, and he would undertake a wide ranging program of social reform to improve the lot of his people. In July 1962, the United States ended its annual payments of thirty million dollars toward the support of the Imperial Iranian Army, and in August Vice President Lyndon B. Johnson stopped in Tehran to soothe the Shah's feelings. Johnson was so deeply impressed with the enthusiastic welcome he received from the 250,000 Iranians who lined his motorcade route that he stopped frequently to shake hands with the crowd. Time after time during his visit he reaffirmed America's continuing commitment to Iran. During their private talks, the Shah accepted the cutback in military aid. A month later, Iran initiated its more independent foreign policy by notifying the Soviet Union that it would allow no foreign missile bases on its soil.[19]

The Defense Department continued its pressure for exclusive jurisdiction as if there were no other issues between Iran and the United States. In the report submitted to the Ervin subcommittee in August 1962, the Department advised that Iran had waived jurisdiction over none of the 18 offenses committed there in the previous year. To date, Iran had not granted a single waiver. American officials must have been aware of Iran's sensitivity where its sovereignty was concerned, but the Defense Department did not drop its demand for extraterritoriality. Because there was no agreement, Forman told Senator Ervin, "Some hardship has resulted, particularly in connection with alleged motor vehicle offenses, and a morale problem has developed."[20]

The Shah announced his "White Revolution" of economic and social reform in January 1963, and a national referendum overwhelmingly approved his program. The Revolution seemed to threaten the power base of Iran's religious leaders on several fronts: land reform could end their rôle as landlords over large tracts of religious land, secularization could reduce their influence over education and equal rights for women appeared to contravene strict Islamic principles. In June, growing discontent burst into rioting in Tehran, which the Shah used as a justification for

18. *New York Times,* March 22, 1962, p. 4, April 13, 1962, p. 1, and April 14, 1962, p. 1.
19. Ramesh Sanghvi, *Aryamehr: The Shah of Iran* (London: MacMillan, 1968), pp. 273-78; Rouhollah K. Ramazani, "The Changing United States Policy in the Middle East," *Virginia Quarterly Review,* XL (1964), pp. 363-82; *New York Times,* August 25, 1962, p. 5, and August 26, 1962, p. 7; and Rouhollah K. Ramazani, "Iran's Changing Foreign Policy: A Preliminary Discussion," *Middle East Journal,* XXIV (1970), p. 432.
20. US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 87th Cong., 2nd sess., 1962, pp. 3 and 32.

destroying the overt resistance of his religious and political opponents. The Shah therefore emerged from the crisis far stronger than he had been before.[21] The White Revolution proceeded, elections were held, and parliament reopened in October 1963, 29 months after the Shah had closed it.

The United States meanwhile went on with its drive to obtain exclusive jurisdiction over its forces in Iran. In March 1963, the Foreign Ministry advised the Embassy that diplomatic privileges were approved for senior American military advisors. Although this was an opening wedge, it had taken the Iranians a full year to make their decision. One may conclude that exclusive jurisdiction was not something they were eager to grant. In fact, after additional consideration the Foreign Ministry informed the Embassy that ratification of the Vienna Convention alone would not extend diplomatic privileges to any of the military advisors: a special act of parliament would be required. The Ministry promised that an appropriate statement would be attached to the Convention when it was submitted for ratification and also proposed that its note and the American reply be forwarded for the legislators' information. The Embassy carefully phrased its response, broadly defining the individuals to be exempt from Iranian law as "those United States military personnel or civilian employees of the Department of Defense and their families forming part of their households who are stationed in Iran in accordance with agreements and arrangements between the two Governments relating to military advice and assistance." While these diplomatic exchanges proceeded, the Defense Department kept up its pressure, telling the Ervin subcommittee that the morale problem in Iran was continuing because there was no SOFA.[22]

Iran's movement toward internal development and greater international activity gained impetus in 1964. Domestic and foreign momentums built together, each feeding the other, as Professor Ramazani has pointed out.[23] For example, the Irano-Soviet trade agreement of 1964, which for the first time gave that trade a firm basis for expansion and diversification, both underscored Iran's more independent foreign policy and also aided the domestic economy. In the same year, the Regional Cooperation for Development linked the three non-Arab Muslim states of the Middle East in an attempt to work out their own modernization plans, a symbolic affirmation of their desire for greater freedom from the West and specifically from the United States. These steps were but the preliminaries to Iran's takeoff. The next three years saw the Soviets building a steel mill in Isfahan, an American firm building a chemical plant in Bandar Shapur, and a modernization project underway at the port of Bushire. Oil revenues increased under a new agreement with the international consortium that managed the National Iranian Oil Company. In 1967,

21. Ramazani, "Iran's Changing Foreign Policy," p. 426.
22. US, Department of State, *United States Treaties and Other International Agreements,* Vol. XIX, pt. 6, TIAS No. 6594, 1968, pp. 7528 and 7531-32; and US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 88th Cong., 1st sess., 1963, p. 2.
23. Ramazani, "Iran's Changing Foreign Policy," pp. 433-35.

a year when Iran's gross national product grew by 11.5 per cent, the Shah's formal coronation announced the régime's self-assurance and the nation's growing strength.[24] Iran was just beginning to feel this new confidence in 1964.

Lyndon B. Johnson's elevation to the presidency in November 1963 resulted in a dramatic reversal of American policy toward Iran. Less than two months after Johnson took office, he sent Peace Corps Director Sargent Shriver to deliver a message to the Shah. Significantly, the Shah did not need to invite the Presidential emissary, as he had Averill Harriman three years earlier. In June 1964, during what was described as a private and cultural visit to the United States, the Shah met with the President and Secretary of State. Johnson saluted the Shah as a "reformist, 20th century monarch." It was probably at this meeting that the President agreed to grant Iran a $200,000,000 credit for purchasing arms in order to build up Iran's military power against serious threats along its southern border on the Persian Gulf and its western frontier with Iraq.[25]

Not only did the President suddenly change American policy on aid to Iran, but the Department of Defense equally suddenly dropped its pressure for exclusive jurisdiction over its personnel in Iran. For the first time since 1959, the Department's report to Senator Ervin's subcommittee did not single out Iran as a problem area.[26] Taken together, these two developments indicate that the two hundred million dollars was the Shah's price for granting diplomatic privileges to the American military community.[27] The Defense Department relaxed its pressure because its goal seemed achieved. All that remained was the approval of the Iranian parliament, which was not expected to renege on the Shah's promise.

On October 13, 1964, the lower house of Iran's parliament, the *Majlis*, approved the extension of diplomatic privileges to the American military advisors by including them with the Embassy's administrative and technical staff under the Vienna Convention. Sixty-one of the 200 deputies voted against the measure, a strong indication of disapproval from that usually docile group. Some opponents argued that Iran would become a protectorate of the United States, while others stressed the insult to Iran's pride. One deputy pointedly noted that "foreign mechanic apprentices" would enjoy privileges identical to those of Iranian ambassadors. (There are, indeed, a number of American support personnel, including truck drivers, mechanics, and their apprentices, serving in Iran.) Prime Minister Hassan Ali

24. Peter Avery, "Iran 1964-8: The Mood of Growing Confidence," *The World Today*, XXIV (1968), pp. 453-66.

25. *New York Times*, January 16, 1964, p. 3; June 5, 1964, p. 3, and June 6, 1964, p. 3; and E.A. Bayne, *Persian Kingship in Transition: Conversations with a Monarch Whose Office is Traditional and Whose Goal is Modernization* (New York: American Universities Field Staff 1968), pp. 215 and 221.

26. US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committtee on Armed Services, 88th Cong., 2nd sess., 1964.

27. E.A. Bayne described both the rapid shift in American policy and the granting of extraterritoriality but did not specifically link the two. Instead, he saw extraterritoriality as a "belated" *quid pro quo* extracted by the United States in return for earlier military aid. See *Persian Kingship in Transition*, pp. 204, 215, and 221.

Mansur responded that the law would exempt only military personnel in the performance of their duties from criminal jurisdiction. Actually, Article 37 of the Vienna Convention granted immunity from criminal prosecution to dependents as well as the administrative and technical staff. These officials were also immune from civil jurisdiction for actions performed in the course of their duties. In the American view, a spokesman told a reporter, immunity from Iranian jurisdiction would in fact follow Article 37.[28]

An exchange of notes on December 9, 1964, completed the transaction. The Foreign Ministry sent the Embassy a copy of the new Iranian law:

> Pursuant to Government Law No. 2157/2291/18 of 11/25/1342 and annexes thereto dated 11/25/42 presented to the Senate, the Government has been empowered to allow the chief and members of the military advisory missions of the United States of America to Iran, whose services are engaged by the Imperial Government in accordance with the appropriate agreements, to enjoy the privileges and immunities specified by the Vienna Convention, signed on April 18, 1961, corresponding to Farvardin 29, 1340, for members of the administrative and technical staff described in Article I of the Convention.

In its reply, the American Embassy gratuitously promised to consider Iranian requests for waivers of jurisdiction in cases involving "heinous crimes and other criminally reprehensible acts."[29] There was no specific reference by either side to American dependents, but in practice they have enjoyed the same immunity as their sponsors.[30]

Iran deposited its ratification of the Vienna Convention on February 3, 1965. In June of that year, Benjamin Forman happily told Senator Ervin that American personnel were immune from all Iranian criminal jurisdiction and from civil jurisdiction while carrying out their official duties. At least in the open session there was no discussion of the *Majlis's* reluctance to grant the new privileges. Forman explained that the terms were so favorable to the United States because the American personnel were there to help Iran. A year later, the Pentagon reaffirmed its satisfaction with the new agreement. After 1966, Iran disappeared from the verbal testimony and written report.[31]

28. *Christian Science Monitor*, November 20, 1964, p. 4. For text of Article 37, see UN, *Treaty Series*, Vol. 500 (1964), p. 116.

29. US, Department of State, *United States Treaties and Other International Agreements*, Vol. XIX, pt. 6, TIAS No. 6594, 1968, pp. 7535 and 7537-38.

30. This conclusion is based on the author's personal observation during two years in Iran. All dependents of American Defense Department personnel carry yellow identification cards called "immunity cards," which are identical to those carried by their sponsors. These are printed in Farsi and include a passport-size photograph of the bearer. There is no question in the military community that dependents have the same privileges as their sponsors.

31. US, Department of State, *Bulletin*, March 29, 1965, p. 477; US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 89th Cong., 1st sess., pp. 2 and 13-14; and US, Congress, Senate, Committee on Armed Services, *Operation of Article VII, Hearing* before a sub-committee of the Committee on Armed Services, 89th Cong., 2nd sess., 1966, p. 2.

Impressionistic evidence indicates that, in contrast with the Defense Department, the State Department understood that Iranians would equate exclusive jurisdiction with capitulations. In 1960, as already mentioned, the reporter from *The New York Times* would have received his background information on the Iranian context from the Embassy. The Foreign Ministry's delay in answering the Embassy's initial request was certainly a sign of reticence. Yet the Embassy continued its pursuit, because the Defense Department's pressure was too strong for the State Department to resist. The result was Iranian ill-will, symbolized by the outcry in the *Majlis*.

III

American extraterritoriality in Iran resulted from a barter negotiated in the context of the 1960s. By the early 1970s, extraterritoriality remained but Iran and the United States were moving toward a new relationship. Iran's modernization had produced regional pre-eminence and at the same time the United States had begun to extricate itself from the rôle of world policeman. The Nixon Doctrine and recognition of Iran's power blended to create in Washington an appreciation that Iran's ability to insure stability along the Persian Gulf littoral could serve American as well as Iranian interests. The revised American attitude toward Iranian purchases of highly sophisticated armament gives evidence of this altered vision, in which Iran is accepted as a more active force in world politics than heretofore.

Part of the new American attitude is a response to Iran's military and economic power. Iran's predominance in the Persian Gulf region is overwhelming. In population and gross national product she far outstrips her neighbors. Her army, navy and air force are larger and better equipped.[32] Although American power is still necessary as an ultimate deterrent against the Soviets, Iran alone can thwart a conventional attack from any nation bordering the Persian Gulf. Washington's recognition of Iran's achievement can be seen in such acts as President Nixon's visit to Iran after his summit meeting in Moscow in 1972, the appointment of an able new Ambassador, Richard Helms, and the American nomination of Iran to replace Canada on the Vietnamese truce commission.

The Nixon Doctrine has also pushed the shift in American thinking about Iran. As the United States searches for regional powers to contain regional tensions, Iran's preponderance of power and long standing friendship with the United States make her the obvious choice in the Gulf area. Iran's interest parallels America's significantly: stability in the Gulf lessens the likelihood of political instability in Iran and improves the security of oil supplies from the Gulf for the United States as well as other Western nations and Japan.

32. See Ramazani, *The Persian Gulf: Iran's Role* for details.

In this changed context, the American military community's extraterritoriality seems to contradict the new American attitude toward Iran. The dilemma is to balance Iranian sovereign sensitivities with the Defense Department's desire to protect American personnel from criminal prosecution for traffic offenses. A treaty similar to the NATO SOFA might provide an answer. It would recognize Iran's national independence by replacing exclusive American jurisdiction with concurrent Irano-American jurisdiction. However, this would leave off-duty traffic accidents subject to Iranian criminal procedures. In the light of these problems three alternatives would seem to emerge. First, Iran could generally limit criminal jurisdiction over vehicular offenses to cases involving such negligence as drunken or reckless driving. Second, Iran and the United States could agree to grant the United States primary jurisdiction over traffic accidents. Third, American military personnel could be allowed to drive only in the performance of official duty.